

AMENDED IN ASSEMBLY SEPTEMBER 3, 2009

AMENDED IN ASSEMBLY AUGUST 31, 2009

AMENDED IN ASSEMBLY AUGUST 17, 2009

AMENDED IN SENATE MAY 12, 2009

AMENDED IN SENATE MARCH 31, 2009

## SENATE BILL

**No. 597**

### **Introduced by Senator Liu**

*(Coauthor: Assembly Member Adams)*

February 27, 2009

---

An act to amend Section 8545 of the Family Code, to amend Section 1506 of the Health and Safety Code, and to amend Sections ~~366.21~~, 4094, 11462, *11463*, 16119, 16120.1, 16121, 16121.05, and 16501.1 of, and to add ~~Section~~ *Sections 366.215 and 16010.2* to, the Welfare and Institutions Code, relating to services for children.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 597, as amended, Liu. Child welfare services, foster care services, and adoption assistance.

(1) Existing law requires the State Department of Mental Health to establish, by regulations, no later than December 31, 1994, program standards for any facility licensed as a community treatment facility. Under existing law, until January 1, 2010, the department shall not require a community treatment facility that meets certain requirements to have 24-hour onsite licensed nursing staff.

This bill would extend applicability of the above provisions relating to onsite licensed nursing staff; to January 1, 2013.

(2) Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of foster family agencies, as defined, by the State Department of Social Services, including applicable personnel requirements. Violation of these provisions is a misdemeanor.

This bill would require a foster family agency that provides treatment of children in foster families to employ one full-time social work supervisor for every eight social workers, or fraction thereof, in the agency. The bill would require the implementation of this provision to cease on and after January 1, 2011, without the enactment of subsequent statutory authorization.

By changing the definition of an existing crime, this bill would impose a state-mandated local program.

(3) Existing law requires the juvenile court to conduct a hearing for the initial disposition of a dependent child of the court, and subsequent hearings to review the status of the child, as specified.

Existing law specifies the circumstances under which the court may schedule a hearing to terminate parental rights or take other specified actions with respect to placement of a child who was under 3 years of age on the date of initial removal or is a member of a sibling group, as specified.

This bill would require the court, in determining whether to schedule the hearing described above for ~~such~~ a child *under these circumstances*, to take into account barriers to a parent's ability to remain in contact with his or her child due to the parent's incarceration or institutionalization.

(4) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds. Under existing law, AFDC-FC benefits are available, with specified exceptions, on behalf of qualified children under 18 years of age. Moneys from the General Fund are continuously appropriated to pay for the state's share of AFDC-FC costs.

Under existing law, foster care providers licensed as group homes have rates established by classifying each group home program and applying a standardized schedule of rates.

An adjusted schedule of rates is applicable to group home programs that receive AFDC-FC payments for services performed during the 2002–03 to 2009–10, inclusive, fiscal years.

This bill would revise RCL point ranges for group home programs that receive AFDC-FC payments for services performed during the 2009–10 fiscal year and subsequent fiscal years, as specified. ~~The bill would require the implementation of the revised point ranges to cease on and after January 1, 2011, without the enactment of subsequent statutory authorization.~~ This bill would provide that no appropriation is made pursuant to the bill for *the* purpose of these provisions.

*Existing law reduces by 10% the standardized schedule of rates for foster family agencies, as defined, effective October 1, 2009.*

*This bill would give the foster family flexibility in applying the rate reduction, but would prohibit more than 10% from being deducted from the child base and increment, as defined in departmental regulations. The bill, effective October 1, 2009, would apply similar rate reductions for foster family agency rates that are not determined by the schedule of rates set forth in the department's regulations.*

(5) Under existing law, the case plan is the foundation and central unifying tool in child welfare services. The components of the case plan include, when appropriate, a written description of the programs and services that will help a child, consistent with the child's best interests, prepare for the transition from foster care to independent living, for a child who is 16 years of age or older.

Existing law requires, when a child is placed in foster care, that the child's case plan include a summary of the health and education information or records, including mental health information or records, of the child.

This bill would require the State Department of Social Services, in consultation with pediatricians, health care experts, and experts in and recipients of child welfare services, to develop a plan for the ongoing oversight and coordination of health care services for a child in a foster care placement, consistent with ~~the federal act~~ *specified federal law*.

(6) Existing law provides for the Adoption Assistance Program (AAP), to be established and administered by the State Department of Social Services or the county, for the purpose of benefiting children residing in foster homes by providing the stability and security of permanent homes. The AAP provides for the payment by the department and counties, of cash assistance to eligible families that adopt eligible children, and bases the amount of the payment on the needs of the child and the resources of the family to meet those needs.

Under existing law, at the time application for adoption of a child who is potentially eligible for AAP benefits is made, and at the time

immediately prior to the finalization of the adoption decree, the department or the licensed adoption agency, whichever is appropriate, is required to provide the prospective adoptive family with designated information.

This bill would additionally require the department or licensed adoption agency to provide information regarding the federal adoption tax credit for any individual who is adopting or considering adopting a child in foster care, in accordance with the federal act.

Existing law relating to adoption defines a special needs child as a child whose adoption without financial assistance would be unlikely because of specified characteristics or circumstances of the child.

This bill would recast and revise the definition of a special needs child, and further would require the need for adoption subsidy to be evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, except under specified circumstances. The bill would make related changes to existing adoption assistance provisions.

(7) Under existing law, the state, through the State Department of Social Services and county welfare departments, is required to establish and support a public system of statewide child welfare services.

Existing law requires the case plan for a child 16 years of age or older to include a written description of the programs and services that will help the child prepare for the transition from foster care to independent living, as specified.

This bill would require additional information pertaining to the child's transition to independent living to be provided in the 90-day period before the child attains 18 years of age, relating to, among other topics, housing, education, and employment services. By imposing additional duties upon each county, the bill would create a state-mandated local program.

(8) (A) This bill would incorporate additional changes in Section 16119 of the Welfare and Institutions Code, proposed by AB 154, to be operative only if AB 154 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

(B) This bill would incorporate additional changes in Section 16501.1 of the Welfare and Institutions Code, proposed by SB 118, to be operative only if SB 118 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 8545 of the Family Code is amended to  
2 read:

3 8545. “Special needs child” means a child for whom all of the  
4 following are true:

5 (a) It has been determined that the child cannot or should not  
6 be returned to the home of his or her parents, as evidenced by a  
7 petition for termination of parental rights, a court order terminating  
8 parental rights, or a signed relinquishment.

9 (b) The child has at least one of the following characteristics  
10 that is a barrier to his or her adoption:

11 (1) Adoptive placement without financial assistance is unlikely  
12 because of membership in a sibling group that should remain intact,  
13 or by virtue of race, ethnicity, color, language, age of three years  
14 or older, or parental background of a medical or behavioral nature  
15 that can be determined to adversely affect the development of the  
16 child.

17 (2) Adoptive placement without financial assistance is unlikely  
18 because the child has a mental, physical, emotional, or medical  
19 disability that has been certified by a licensed professional  
20 competent to make an assessment and operating within the scope  
21 of his or her profession. This paragraph shall also apply to children  
22 with a developmental disability as defined in subdivision (a) of  
23 Section 4512 of the Welfare and Institutions Code, including those  
24 determined to require out-of-home nonmedical care as described  
25 in Section 11464 of the Welfare and Institutions Code.

(c) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

SEC. 2. Section 1506 of the Health and Safety Code is amended to read:

1506. (a) (1) Any holder of a valid license issued by the department that authorizes the licensee to engage in any foster family agency functions, may use only a certified family home that has been certified by that agency or a licensed foster family home approved for this use by the licensing county pursuant to Section 1506.5.

(2) Any home selected and certified for the reception and care of children by that licensee shall not, during the time it is certified and used only by that agency for these placements or care, be subject to Section 1508. A certified family home may not be concurrently licensed as a foster family home or as any other licensed residential facility.

(3) A child with a developmental disability who is placed in a certified family home by a foster family agency that is operating under agreement with the regional center responsible for that child may remain in the certified family home after the age of 18 years. The determination regarding whether and how long he or she may remain as a resident after the age of 18 years shall be made through the agreement of all parties involved, including the resident, the foster parent, the foster family agency social worker, the resident's regional center case manager, and the resident's parent, legal guardian, or conservator, as appropriate. This determination shall include a needs and service plan that contains an assessment of the child's needs to ensure continued compatibility with the other children in placement. The needs and service plan shall be completed no more than six months prior to the child's eighteenth birthday. The assessment shall be documented and maintained in the child's file with the foster family agency.

(b) (1) A foster family agency shall certify to the department that the home has met the department's licensing standards. A

1 foster family agency may require a family home to meet additional  
2 standards or be compatible with its treatment approach.

3 (2) The foster family agency shall issue a certificate of approval  
4 to the certified family home upon its determination that it has met  
5 the standards established by the department and before the  
6 placement of any child in the home. The certificate shall be valid  
7 for a period not to exceed one year. The annual recertification shall  
8 require a certified family home to complete at least 12 hours of  
9 structured applicable training or continuing education. At least  
10 one hour of training during the first six months following initial  
11 certification shall be dedicated to meeting the requirements of  
12 paragraph (1) of subdivision (b) of Section 11174.1 of the Penal  
13 Code.

14 (3) If the agency determines that the home no longer meets the  
15 standards, it shall notify the department and the local placing  
16 agency.

17 (c) The department shall develop licensing regulations  
18 differentiating between foster family agencies that provide  
19 treatment of children in foster families and those that provide  
20 nontreatment services.

21 (d) As used in this chapter, “certified family home” means a  
22 family residence certified by a licensed foster family agency and  
23 issued a certificate of approval by that agency as meeting licensing  
24 standards, and used only by that foster family agency for  
25 placements.

26 (e) (1) Requirements for social work personnel for a foster  
27 family agency shall be a master’s degree from an accredited or  
28 state approved graduate school in social work or social welfare,  
29 or equivalent education and experience, as determined by the state  
30 department.

31 (2) Persons who possess a master’s degree from an accredited  
32 or state approved graduate school in any of the following areas,  
33 or equivalent education and experience, as determined by the state  
34 department, shall be considered to be qualified to perform social  
35 work activities in a foster family agency:

36 (A) Marriage, family, and child counseling.

37 (B) Child psychology.

38 (C) Child development.

39 (D) Counseling psychology.

40 (E) Social psychology.

1 (F) Clinical psychology.

2 (G) Educational psychology, consistent with the scope of  
3 practice as described in Section 4986.10 of the Business and  
4 Professions Code.

5 (H) Education, with emphasis on counseling.

6 (f) (1) In addition to the degree specifications in subdivision  
7 (e), all of the following coursework and field practice or  
8 experience, as defined in departmental regulations, shall be required  
9 of all new hires for the position of social work personnel effective  
10 January 1, 1995:

11 (A) At least three semester units of field practice at the master's  
12 level or six months' full-time equivalent experience in a public or  
13 private social service agency setting.

14 (B) At least nine semester units of coursework related to human  
15 development or human behavior, or, within the first year of  
16 employment, experience working with children and families as a  
17 major responsibility of the position under the supervision of a  
18 supervising social worker.

19 (C) At least three semester units in working with minority  
20 populations or six months of experience in working with minority  
21 populations or training in cultural competency and working with  
22 minority populations within the first six months of employment  
23 as a condition of employment.

24 (D) At least three semester units in child welfare or at least six  
25 months of experience in a public or private child welfare social  
26 services setting for a nonsupervisory social worker. A supervising  
27 social worker shall have two years' experience in a public or private  
28 child welfare social services setting.

29 (2) (A) Persons who do not meet the requirements specified in  
30 subdivision (e) or (f) may apply for an exception as provided for  
31 in subdivisions (g) and (h).

32 (B) Exceptions granted by the department prior to January 1,  
33 1995, shall remain in effect.

34 (3) (A) Persons who are hired as social work personnel on or  
35 after January 1, 1995, who do not meet the requirements listed in  
36 this subdivision shall be required to successfully meet those  
37 requirements in order to be employed as social work personnel in  
38 a foster family agency.

39 (B) Employees who were hired prior to January 1, 1995, shall  
40 not be required to meet the requirements of this subdivision in



1 order to remain employed as social work personnel in a foster  
2 family agency.

3 (4) Coursework and field practice or experience completed to  
4 fulfill the degree requirements of subdivision (e) may be used to  
5 satisfy the requirements of this subdivision.

6 (g) Individuals seeking an exception to the requirements of  
7 subdivision (e) or (f) based on completion of equivalent education  
8 and experience shall apply to the department by the process  
9 established by the department.

10 (h) The State Department of Social Services shall be required  
11 to complete the process for the exception to minimum education  
12 and experience requirements described in subdivisions (e) and (f)  
13 within 30 days of receiving the exception application of social  
14 work personnel or supervising social worker qualifications from  
15 the foster family agency.

16 (i) The department shall review the feasibility of instituting a  
17 licensure category to cover foster homes that are established  
18 specifically to care for and supervise adults with developmental  
19 disabilities, as defined in subdivision (a) of Section 4512 of the  
20 Welfare and Institutions Code, to prevent the institutionalization  
21 of those individuals.

22 (j) For purposes of this section, “social work personnel” means  
23 supervising social workers as well as nonsupervisory social  
24 workers.

25 (k) A foster family agency that provides treatment of children  
26 in foster families shall employ one full-time social work supervisor  
27 for every eight social workers or fraction thereof in the agency.  
28 This subdivision shall not be implemented on or after January 1,  
29 2011, without the enactment of subsequent statutory authorization.

30 ~~SEC. 3. Section 366.21 of the Welfare and Institutions Code~~  
31 ~~is amended to read:~~

32 ~~366.21. (a) Every hearing conducted by the juvenile court~~  
33 ~~reviewing the status of a dependent child shall be placed on the~~  
34 ~~appearance calendar. The court shall advise all persons present at~~  
35 ~~the hearing of the date of the future hearing and of their right to~~  
36 ~~be present and represented by counsel.~~

37 ~~(b) Except as provided in Sections 294 and 295, notice of the~~  
38 ~~hearing shall be provided pursuant to Section 293.~~

39 ~~(c) At least 10 calendar days prior to the hearing, the social~~  
40 ~~worker shall file a supplemental report with the court regarding~~

1 the services provided or offered to the parent or legal guardian to  
2 enable him or her to assume custody and the efforts made to  
3 achieve legal permanence for the child if efforts to reunify fail,  
4 including, but not limited to, efforts to maintain relationships  
5 between a child who is 10 years of age or older and has been in  
6 out-of-home placement for six months or longer and individuals  
7 who are important to the child, consistent with the child's best  
8 interests; the progress made; and, where relevant, the prognosis  
9 for return of the child to the physical custody of his or her parent  
10 or legal guardian; and shall make his or her recommendation for  
11 disposition. If the child is a member of a sibling group described  
12 in subparagraph (C) of paragraph (1) of subdivision (a) of Section  
13 361.5, the report and recommendation may also take into account  
14 those factors described in subdivision (e) relating to the child's  
15 sibling group. If the recommendation is not to return the child to  
16 a parent or legal guardian, the report shall specify why the return  
17 of the child would be detrimental to the child. The social worker  
18 shall provide the parent or legal guardian, counsel for the child,  
19 and any court-appointed child advocate with a copy of the report,  
20 including his or her recommendation for disposition, at least 10  
21 calendar days prior to the hearing. In the case of a child removed  
22 from the physical custody of his or her parent or legal guardian,  
23 the social worker shall, at least 10 calendar days prior to the  
24 hearing, provide a summary of his or her recommendation for  
25 disposition to any foster parents, relative caregivers, and certified  
26 foster parents who have been approved for adoption by the State  
27 Department of Social Services when it is acting as an adoption  
28 agency in counties that are not served by a county adoption agency  
29 or by a licensed county adoption agency, community care facility,  
30 or foster family agency having the physical custody of the child.  
31 The social worker shall include a copy of the Judicial Council  
32 Caregiver Information Form (JV-290) with the summary of  
33 recommendations to the child's foster parents, relative caregivers,  
34 or foster parents approved for adoption, in the caregiver's primary  
35 language when available, along with information on how to file  
36 the form with the court.

37 (d) Prior to any hearing involving a child in the physical custody  
38 of a community care facility or a foster family agency that may  
39 result in the return of the child to the physical custody of his or  
40 her parent or legal guardian, or in adoption or the creation of a

1 legal guardianship, the facility or agency shall file with the court  
2 a report, or a Judicial Council Caregiver Information Form  
3 (JV-290), containing its recommendation for disposition. Prior to  
4 the hearing involving a child in the physical custody of a foster  
5 parent, a relative caregiver, or a certified foster parent who has  
6 been approved for adoption by the State Department of Social  
7 Services when it is acting as an adoption agency or by a licensed  
8 adoption agency, the foster parent, relative caregiver, or the  
9 certified foster parent who has been approved for adoption by the  
10 State Department of Social Services when it is acting as an  
11 adoption agency in counties that are not served by a county  
12 adoption agency or by a licensed county adoption agency, may  
13 file with the court a report containing his or her recommendation  
14 for disposition. The court shall consider the report and  
15 recommendation filed pursuant to this subdivision prior to  
16 determining any disposition.

17 (e) At the review hearing held six months after the initial  
18 dispositional hearing, but no later than 12 months after the date  
19 the child entered foster care as determined in Section 361.49,  
20 whichever occurs earlier, the court shall order the return of the  
21 child to the physical custody of his or her parent or legal guardian  
22 unless the court finds, by a preponderance of the evidence, that  
23 the return of the child to his or her parent or legal guardian would  
24 create a substantial risk of detriment to the safety, protection, or  
25 physical or emotional well-being of the child. The social worker  
26 shall have the burden of establishing that detriment. At the hearing,  
27 the court shall consider the criminal history, obtained pursuant to  
28 paragraph (1) of subdivision (f) of Section 16504.5, of the parent  
29 or legal guardian subsequent to the child's removal to the extent  
30 that the criminal record is substantially related to the welfare of  
31 the child or the parent's or guardian's ability to exercise custody  
32 and control regarding his or her child, provided the parent or legal  
33 guardian agreed to submit fingerprint images to obtain criminal  
34 history information as part of the case plan. The failure of the  
35 parent or legal guardian to participate regularly and make  
36 substantive progress in court-ordered treatment programs shall be  
37 prima facie evidence that return would be detrimental. In making  
38 its determination, the court shall review and consider the social  
39 worker's report and recommendations and the report and  
40 recommendations of any child advocate appointed pursuant to

1 Section 356.5; and shall consider the efforts or progress, or both,  
2 demonstrated by the parent or legal guardian and the extent to  
3 which he or she availed himself or herself to services provided;  
4 taking into account the particular barriers to an incarcerated or  
5 institutionalized parent or legal guardian's access to those  
6 court-mandated services and ability to maintain contact with his  
7 or her child.

8 Regardless of whether the child is returned to a parent or legal  
9 guardian, the court shall specify the factual basis for its conclusion  
10 that the return would be detrimental or would not be detrimental.  
11 The court also shall make appropriate findings pursuant to  
12 subdivision (a) of Section 366; and, where relevant, shall order  
13 any additional services reasonably believed to facilitate the return  
14 of the child to the custody of his or her parent or legal guardian.  
15 The court shall also inform the parent or legal guardian that if the  
16 child cannot be returned home by the 12-month permanency  
17 hearing, a proceeding pursuant to Section 366.26 may be instituted.  
18 This section does not apply in a case where, pursuant to Section  
19 361.5, the court has ordered that reunification services shall not  
20 be provided.

21 If the child was under three years of age on the date of the initial  
22 removal, or is a member of a sibling group described in  
23 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
24 361.5, and the court finds by clear and convincing evidence that  
25 the parent failed to participate regularly and make substantive  
26 progress in a court-ordered treatment plan, the court may schedule  
27 a hearing pursuant to Section 366.26 within 120 days. The court  
28 shall take into account any particular barriers to a parent's ability  
29 to maintain contact with his or her child due to the parent's  
30 incarceration or institutionalization. If, however, the court finds  
31 there is a substantial probability that the child, who was under  
32 three years of age on the date of initial removal or is a member of  
33 a sibling group described in subparagraph (C) of paragraph (1) of  
34 subdivision (a) of Section 361.5, may be returned to his or her  
35 parent or legal guardian within six months or that reasonable  
36 services have not been provided, the court shall continue the case  
37 to the 12-month permanency hearing.

38 For the purpose of placing and maintaining a sibling group  
39 together in a permanent home, the court, in making its  
40 determination to schedule a hearing pursuant to Section 366.26

1 for some or all members of a sibling group, as described in  
2 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
3 361.5, shall review and consider the social worker's report and  
4 recommendations. Factors the report shall address, and the court  
5 shall consider, may include, but need not be limited to, whether  
6 the sibling group was removed from parental care as a group, the  
7 closeness and strength of the sibling bond, the ages of the siblings,  
8 the appropriateness of maintaining the sibling group together, the  
9 detriment to the child if sibling ties are not maintained, the  
10 likelihood of finding a permanent home for the sibling group,  
11 whether the sibling group is currently placed together in a  
12 preadoptive home or has a concurrent plan goal of legal  
13 permanency in the same home, the wishes of each child whose  
14 age and physical and emotional condition permits a meaningful  
15 response, and the best interest of each child in the sibling group.  
16 The court shall specify the factual basis for its finding that it is in  
17 the best interest of each child to schedule a hearing pursuant to  
18 Section 366.26 in 120 days for some or all of the members of the  
19 sibling group.

20 If the child was removed initially under subdivision (g) of  
21 Section 300 and the court finds by clear and convincing evidence  
22 that the whereabouts of the parent are still unknown, or the parent  
23 has failed to contact and visit the child, the court may schedule a  
24 hearing pursuant to Section 366.26 within 120 days. The court  
25 shall take into account any particular barriers to a parent's ability  
26 to maintain contact with his or her child due to the parent's  
27 incarceration or institutionalization. If the court finds by clear and  
28 convincing evidence that the parent has been convicted of a felony  
29 indicating parental unfitness, the court may schedule a hearing  
30 pursuant to Section 366.26 within 120 days.

31 If the child had been placed under court supervision with a  
32 previously noncustodial parent pursuant to Section 361.2, the court  
33 shall determine whether supervision is still necessary. The court  
34 may terminate supervision and transfer permanent custody to that  
35 parent, as provided for by paragraph (1) of subdivision (b) of  
36 Section 361.2.

37 In all other cases, the court shall direct that any reunification  
38 services previously ordered shall continue to be offered to the  
39 parent or legal guardian pursuant to the time periods set forth in

1 ~~subdivision (a) of Section 361.5, provided that the court may~~  
2 ~~modify the terms and conditions of those services.~~

3 ~~If the child is not returned to his or her parent or legal guardian,~~  
4 ~~the court shall determine whether reasonable services that were~~  
5 ~~designed to aid the parent or legal guardian in overcoming the~~  
6 ~~problems that led to the initial removal and the continued custody~~  
7 ~~of the child have been provided or offered to the parent or legal~~  
8 ~~guardian. The court shall order that those services be initiated,~~  
9 ~~continued, or terminated.~~

10 ~~(f) The permanency hearing shall be held no later than 12~~  
11 ~~months after the date the child entered foster care, as that date is~~  
12 ~~determined pursuant to Section 361.49. At the permanency hearing,~~  
13 ~~the court shall determine the permanent plan for the child, which~~  
14 ~~shall include a determination of whether the child will be returned~~  
15 ~~to the child's home and, if so, when, within the time limits of~~  
16 ~~subdivision (a) of Section 361.5. The court shall order the return~~  
17 ~~of the child to the physical custody of his or her parent or legal~~  
18 ~~guardian unless the court finds, by a preponderance of the evidence,~~  
19 ~~that the return of the child to his or her parent or legal guardian~~  
20 ~~would create a substantial risk of detriment to the safety, protection,~~  
21 ~~or physical or emotional well-being of the child. The social worker~~  
22 ~~shall have the burden of establishing that detriment. At the~~  
23 ~~permanency hearing, the court shall consider the criminal history,~~  
24 ~~obtained pursuant to paragraph (1) of subdivision (f) of Section~~  
25 ~~16504.5, of the parent or legal guardian subsequent to the child's~~  
26 ~~removal to the extent that the criminal record is substantially related~~  
27 ~~to the welfare of the child or the parent or legal guardian's ability~~  
28 ~~to exercise custody and control regarding his or her child, provided~~  
29 ~~that the parent or legal guardian agreed to submit fingerprint images~~  
30 ~~to obtain criminal history information as part of the case plan. The~~  
31 ~~court shall also determine whether reasonable services that were~~  
32 ~~designed to aid the parent or legal guardian to overcome the~~  
33 ~~problems that led to the initial removal and continued custody of~~  
34 ~~the child have been provided or offered to the parent or legal~~  
35 ~~guardian. For each youth 16 years of age and older, the court shall~~  
36 ~~also determine whether services have been made available to assist~~  
37 ~~him or her in making the transition from foster care to independent~~  
38 ~~living. The failure of the parent or legal guardian to participate~~  
39 ~~regularly and make substantive progress in court-ordered treatment~~  
40 ~~programs shall be prima facie evidence that return would be~~

1 detrimental. In making its determination, the court shall review  
2 and consider the social worker's report and recommendations and  
3 the report and recommendations of any child advocate appointed  
4 pursuant to Section 356.5, shall consider the efforts or progress,  
5 or both, demonstrated by the parent or legal guardian and the extent  
6 to which he or she availed himself or herself of services provided,  
7 taking into account the particular barriers to an incarcerated or  
8 institutionalized parent or legal guardian's access to those  
9 court-mandated services and ability to maintain contact with his  
10 or her child and shall make appropriate findings pursuant to  
11 subdivision (a) of Section 366.

12 Regardless of whether the child is returned to his or her parent  
13 or legal guardian, the court shall specify the factual basis for its  
14 decision. If the child is not returned to a parent or legal guardian,  
15 the court shall specify the factual basis for its conclusion that the  
16 return would be detrimental. The court also shall make a finding  
17 pursuant to subdivision (a) of Section 366. If the child is not  
18 returned to his or her parent or legal guardian, the court shall  
19 consider, and state for the record, in-state and out-of-state  
20 placement options. If the child is placed out of the state, the court  
21 shall make a determination whether the out-of-state placement  
22 continues to be appropriate and in the best interests of the child.

23 (g) If the time period in which the court-ordered services were  
24 provided has met or exceeded the time period set forth in  
25 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)  
26 of Section 361.5, as appropriate, and a child is not returned to the  
27 custody of a parent or legal guardian at the permanency hearing  
28 held pursuant to subdivision (f), the court shall do one of the  
29 following:

30 (1) Continue the case for up to six months for a permanency  
31 review hearing, provided that the hearing shall occur within 18  
32 months of the date the child was originally taken from the physical  
33 custody of his or her parent or legal guardian. The court shall  
34 continue the case only if it finds that there is a substantial  
35 probability that the child will be returned to the physical custody  
36 of his or her parent or legal guardian and safely maintained in the  
37 home within the extended period of time or that reasonable services  
38 have not been provided to the parent or legal guardian. For the  
39 purposes of this section, in order to find a substantial probability  
40 that the child will be returned to the physical custody of his or her

1 parent or legal guardian and safely maintained in the home within  
2 the extended period of time, the court shall be required to find all  
3 of the following:

4 (A) That the parent or legal guardian has consistently and  
5 regularly contacted and visited with the child.

6 (B) That the parent or legal guardian has made significant  
7 progress in resolving problems that led to the child's removal from  
8 the home.

9 (C) The parent or legal guardian has demonstrated the capacity  
10 and ability both to complete the objectives of his or her treatment  
11 plan and to provide for the child's safety, protection, physical and  
12 emotional well-being, and special needs.

13 For purposes of this subdivision, the court's decision to continue  
14 the case based on a finding or substantial probability that the child  
15 will be returned to the physical custody of his or her parent or legal  
16 guardian is a compelling reason for determining that a hearing  
17 held pursuant to Section 366.26 is not in the best interests of the  
18 child.

19 The court shall inform the parent or legal guardian that if the  
20 child cannot be returned home by the next permanency review  
21 hearing, a proceeding pursuant to Section 366.26 may be instituted.  
22 The court may not order that a hearing pursuant to Section 366.26  
23 be held unless there is clear and convincing evidence that  
24 reasonable services have been provided or offered to the parent or  
25 legal guardian.

26 (2) Order that a hearing be held within 120 days, pursuant to  
27 Section 366.26, but only if the court does not continue the case to  
28 the permanency planning review hearing and there is clear and  
29 convincing evidence that reasonable services have been provided  
30 or offered to the parents or legal guardians.

31 (3) Order that the child remain in long-term foster care, but only  
32 if the court finds by clear and convincing evidence, based upon  
33 the evidence already presented to it, including a recommendation  
34 by the State Department of Social Services when it is acting as an  
35 adoption agency in counties that are not served by a county  
36 adoption agency or by a licensed county adoption agency, that  
37 there is a compelling reason for determining that a hearing held  
38 pursuant to Section 366.26 is not in the best interest of the child  
39 because the child is not a proper subject for adoption and has no  
40 one willing to accept legal guardianship. For purposes of this



1 ~~section, a recommendation by the State Department of Social~~  
2 ~~Services when it is acting as an adoption agency in counties that~~  
3 ~~are not served by a county adoption agency or by a licensed county~~  
4 ~~adoption agency that adoption is not in the best interest of the child~~  
5 ~~shall constitute a compelling reason for the court's determination.~~  
6 ~~That recommendation shall be based on the present circumstances~~  
7 ~~of the child and may not preclude a different recommendation at~~  
8 ~~a later date if the child's circumstances change.~~

9 ~~If the court orders that a child who is 10 years of age or older~~  
10 ~~remain in long-term foster care, the court shall determine whether~~  
11 ~~the agency has made reasonable efforts to maintain the child's~~  
12 ~~relationships with individuals other than the child's siblings who~~  
13 ~~are important to the child, consistent with the child's best interests,~~  
14 ~~and may make any appropriate order to ensure that those~~  
15 ~~relationships are maintained.~~

16 ~~If the child is not returned to his or her parent or legal guardian,~~  
17 ~~the court shall consider, and state for the record, in-state and~~  
18 ~~out-of-state options for permanent placement. If the child is placed~~  
19 ~~out of the state, the court shall make a determination whether the~~  
20 ~~out-of-state placement continues to be appropriate and in the best~~  
21 ~~interests of the child.~~

22 ~~(h) In any case in which the court orders that a hearing pursuant~~  
23 ~~to Section 366.26 shall be held, it shall also order the termination~~  
24 ~~of reunification services to the parent or legal guardian. The court~~  
25 ~~shall continue to permit the parent or legal guardian to visit the~~  
26 ~~child pending the hearing unless it finds that visitation would be~~  
27 ~~detrimental to the child. The court shall make any other appropriate~~  
28 ~~orders to enable the child to maintain relationships with individuals,~~  
29 ~~other than the child's siblings, who are important to the child,~~  
30 ~~consistent with the child's best interests.~~

31 ~~(i) (1) Whenever a court orders that a hearing pursuant to~~  
32 ~~Section 366.26 shall be held, it shall direct the agency supervising~~  
33 ~~the child and the licensed county adoption agency, or the State~~  
34 ~~Department of Social Services when it is acting as an adoption~~  
35 ~~agency in counties that are not served by a county adoption agency,~~  
36 ~~to prepare an assessment that shall include:~~

37 ~~(A) Current search efforts for an absent parent or parents or~~  
38 ~~legal guardians.~~

39 ~~(B) A review of the amount of and nature of any contact between~~  
40 ~~the child and his or her parents or legal guardians and other~~

1 members of his or her extended family since the time of placement.  
2 Although the extended family of each child shall be reviewed on  
3 a case-by-case basis, “extended family” for the purpose of this  
4 subparagraph shall include, but not be limited to, the child’s  
5 siblings, grandparents, aunts, and uncles.

6 ~~(C) An evaluation of the child’s medical, developmental,~~  
7 ~~scholastic, mental, and emotional status.~~

8 ~~(D) A preliminary assessment of the eligibility and commitment~~  
9 ~~of any identified prospective adoptive parent or legal guardian,~~  
10 ~~particularly the caretaker, to include a social history including~~  
11 ~~screening for criminal records and prior referrals for child abuse~~  
12 ~~or neglect, the capability to meet the child’s needs, and the~~  
13 ~~understanding of the legal and financial rights and responsibilities~~  
14 ~~of adoption and guardianship. If a proposed guardian is a relative~~  
15 ~~of the minor, and the relative was assessed for foster care placement~~  
16 ~~of the minor prior to January 1, 1998, the assessment shall also~~  
17 ~~consider, but need not be limited to, all of the factors specified in~~  
18 ~~subdivision (a) of Section 361.3.~~

19 ~~(E) The relationship of the child to any identified prospective~~  
20 ~~adoptive parent or legal guardian, the duration and character of~~  
21 ~~the relationship, the motivation for seeking adoption or~~  
22 ~~guardianship, and a statement from the child concerning placement~~  
23 ~~and the adoption or guardianship, unless the child’s age or physical,~~  
24 ~~emotional, or other condition precludes his or her meaningful~~  
25 ~~response, and if so, a description of the condition.~~

26 ~~(F) A description of efforts to be made to identify a prospective~~  
27 ~~adoptive parent or legal guardian, including, but not limited to,~~  
28 ~~child-specific recruitment and listing on an adoption exchange~~  
29 ~~within the state or out of the state.~~

30 ~~(G) An analysis of the likelihood that the child will be adopted~~  
31 ~~if parental rights are terminated.~~

32 ~~(2) (A) A relative caregiver’s preference for legal guardianship~~  
33 ~~over adoption, if it is due to circumstances that do not include an~~  
34 ~~unwillingness to accept legal or financial responsibility for the~~  
35 ~~child, shall not constitute the sole basis for recommending removal~~  
36 ~~of the child from the relative caregiver for purposes of adoptive~~  
37 ~~placement.~~

38 ~~(B) A relative caregiver shall be given information regarding~~  
39 ~~the permanency options of guardianship and adoption, including~~

1 the long-term benefits and consequences of each option, prior to  
2 establishing legal guardianship or pursuing adoption.

3 (j) ~~If, at any hearing held pursuant to Section 366.26, a~~  
4 ~~guardianship is established for the minor with a relative, and~~  
5 ~~juvenile court dependency is subsequently dismissed, the relative~~  
6 ~~shall be eligible for aid under the Kin-GAP Program, as provided~~  
7 ~~for in Article 4.5 (commencing with Section 11360) of Chapter 2~~  
8 ~~of Part 3 of Division 9.~~

9 (k) ~~As used in this section, “relative” means an adult who is~~  
10 ~~related to the minor by blood, adoption, or affinity within the fifth~~  
11 ~~degree of kinship, including stepparents, stepsiblings, and all~~  
12 ~~relatives whose status is preceded by the words “great,”~~  
13 ~~“great-great,” or “grand,” or the spouse of any of those persons~~  
14 ~~even if the marriage was terminated by death or dissolution.~~

15 (l) ~~For purposes of this section, evidence of any of the following~~  
16 ~~circumstances may not, in and of itself, be deemed a failure to~~  
17 ~~provide or offer reasonable services:~~

18 (1) ~~The child has been placed with a foster family that is eligible~~  
19 ~~to adopt a child, or has been placed in a preadoptive home.~~

20 (2) ~~The case plan includes services to make and finalize a~~  
21 ~~permanent placement for the child if efforts to reunify fail.~~

22 (3) ~~Services to make and finalize a permanent placement for~~  
23 ~~the child, if efforts to reunify fail, are provided concurrently with~~  
24 ~~services to reunify the family.~~

25 (m) ~~The implementation and operation of the amendments to~~  
26 ~~subdivisions (e) and (g) enacted at the 2005–06 Regular Session~~  
27 ~~shall be subject to appropriation through the budget process and~~  
28 ~~by phase, as provided in Section 366.35.~~

29 *SEC. 3. Section 366.215 is added to the Welfare and Institutions*  
30 *Code, to read:*

31 *366.215. With respect to a hearing held pursuant to subdivision*  
32 *(e) of Section 366.21, if the child in question was under three years*  
33 *of age on the date of the initial removal, or is a member of a sibling*  
34 *group described in subparagraph (C) of paragraph (1) of*  
35 *subdivision (a) of Section 361.5, the court, in determining whether*  
36 *to schedule a hearing pursuant to Section 366.26, shall take into*  
37 *account any particular barriers to a parent’s ability to maintain*  
38 *contact with his or her child due to the parent’s incarceration or*  
39 *institutionalization.*

1 SEC. 4. Section 4094 of the Welfare and Institutions Code is  
2 amended to read:

3 4094. (a) The State Department of Mental Health shall  
4 establish, by regulations adopted at the earliest possible date, but  
5 no later than December 31, 1994, program standards for any facility  
6 licensed as a community treatment facility. This section shall apply  
7 only to community treatment facilities described in this subdivision.

8 (b) A certification of compliance issued by the State Department  
9 of Mental Health shall be a condition of licensure for the  
10 community treatment facility by the State Department of Social  
11 Services. The department may, upon the request of a county,  
12 delegate the certification and supervision of a community treatment  
13 facility to the county department of mental health.

14 (c) The State Department of Mental Health shall adopt  
15 regulations to include, but not be limited to, the following:

16 (1) Procedures by which the Director of Mental Health shall  
17 certify that a facility requesting licensure as a community treatment  
18 facility pursuant to Chapter 3 (commencing with Section 1500) of  
19 Division 2 of the Health and Safety Code is in compliance with  
20 program standards established pursuant to this section.

21 (2) Procedures by which the Director of Mental Health shall  
22 deny a certification to a facility or decertify a facility that is  
23 licensed as a community treatment facility pursuant to Chapter 3  
24 (commencing with Section 1500) of Division 2 of the Health and  
25 Safety Code, but no longer complying with program standards  
26 established pursuant to this section, in accordance with Chapter 5  
27 (commencing with Section 11500) of Part 1 of Division 3 of Title  
28 2 of the Government Code.

29 (3) Provisions for site visits by the State Department of Mental  
30 Health for the purpose of reviewing a facility's compliance with  
31 program standards established pursuant to this section.

32 (4) Provisions for the community care licensing staff of the  
33 State Department of Social Services to report to the State  
34 Department of Mental Health when there is reasonable cause to  
35 believe that a community treatment facility is not in compliance  
36 with program standards established pursuant to this section.

37 (5) Provisions for the State Department of Mental Health to  
38 provide consultation and documentation to the State Department  
39 of Social Services in any administrative proceeding regarding

1 denial, suspension, or revocation of a community treatment facility  
2 license.

3 (d) The standards adopted by regulations pursuant to subdivision  
4 (a) shall include, but not be limited to, standards for treatment,  
5 staffing, and for the use of psychotropic medication, discipline,  
6 and restraints in the facilities. The standards shall also meet the  
7 requirements of Section 4094.5.

8 (e) (1) Until January 1, 2013, all of the following are applicable:

9 (A) A community treatment facility shall not be required by the  
10 State Department of Mental Health to have 24-hour onsite licensed  
11 nursing staff, but shall retain at least one full-time, or  
12 full-time-equivalent, registered nurse onsite if both of the following  
13 are applicable:

14 (i) The facility does not use mechanical restraint.

15 (ii) The facility only admits children who have been assessed,  
16 at the point of admission, by a licensed primary care provider and  
17 a licensed psychiatrist, who have concluded, with respect to each  
18 child, that the child does not require medical services that require  
19 24-hour nursing coverage. For purposes of this section, a “primary  
20 care provider” includes a person defined in Section 14254, or a  
21 nurse practitioner who has the responsibility for providing initial  
22 and primary care to patients, for maintaining the continuity of care,  
23 and for initiating referral for specialist care.

24 (B) Other medical or nursing staff shall be available on call to  
25 provide appropriate services, when necessary, within one hour.

26 (C) All direct care staff shall be trained in first aid and  
27 cardiopulmonary resuscitation, and in emergency intervention  
28 techniques and methods approved by the Community Care  
29 Licensing Division of the State Department of Social Services.

30 (2) The State Department of Mental Health may adopt  
31 emergency regulations as necessary to implement this subdivision.  
32 The adoption of these regulations shall be deemed to be an  
33 emergency and necessary for the immediate preservation of the  
34 public peace, health and safety, and general welfare. The  
35 regulations shall be exempt from review by the Office of  
36 Administrative Law and shall become effective immediately upon  
37 filing with the Secretary of State. The regulations shall not remain  
38 in effect more than 180 days unless the adopting agency complies  
39 with all the provisions of Chapter 3.5 (commencing with Section  
40 11340) of Part 1 of Division 3 of Title 2 of the Government Code,

1 as required by subdivision (e) of Section 11346.1 of the  
2 Government Code.

3 (f) During the initial public comment period for the adoption  
4 of the regulations required by this section, the community care  
5 facility licensing regulations proposed by the State Department of  
6 Social Services and the program standards proposed by the State  
7 Department of Mental Health shall be presented simultaneously.

8 (g) A minor shall be admitted to a community treatment facility  
9 only if the requirements of Section 4094.5 and either of the  
10 following conditions are met:

11 (1) The minor is within the jurisdiction of the juvenile court,  
12 and has made voluntary application for mental health services  
13 pursuant to Section 6552.

14 (2) Informed consent is given by a parent, guardian, conservator,  
15 or other person having custody of the minor.

16 (h) Any minor admitted to a community treatment facility shall  
17 have the same due process rights afforded to a minor who may be  
18 admitted to a state hospital, pursuant to the holding in *In re Roger*  
19 *S.* (1977) 19 Cal.3d 921. Minors who are wards or dependents of  
20 the court and to whom this subdivision applies shall be afforded  
21 due process in accordance with Section 6552 and related case law,  
22 including *In re Michael E.* (1975) 15 Cal.3d 183. Regulations  
23 adopted pursuant to Section 4094 shall specify the procedures for  
24 ensuring these rights, including provisions for notification of rights  
25 and the time and place of hearings.

26 (i) Notwithstanding Section 13340 of the Government Code,  
27 the sum of forty-five thousand dollars (\$45,000) is hereby  
28 appropriated annually from the General Fund to the State  
29 Department of Mental Health for one personnel year to carry out  
30 the provisions of this section.

31 SEC. 5. Section 11462 of the Welfare and Institutions Code is  
32 amended to read:

33 11462. (a) (1) Effective July 1, 1990, foster care providers  
34 licensed as group homes, as defined in departmental regulations,  
35 including public child care institutions, as defined in Section  
36 11402.5, shall have rates established by classifying each group  
37 home program and applying the standardized schedule of rates.  
38 The department shall collect information from group providers  
39 beginning January 1, 1990, in order to classify each group home  
40 program.

(2) Notwithstanding paragraph (1), foster care providers licensed as group homes shall have rates established only if the group home is organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400. The department shall terminate the rate effective January 1, 1993, of any group home not organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400.

(3) (A) The department shall determine, consistent with the requirements of this chapter and other relevant requirements under law, the rate classification level (RCL) for each group home program on a biennial basis. Submission of the biennial rate application shall be made according to a schedule determined by the department.

(B) The department shall adopt regulations to implement this paragraph. The adoption, amendment, repeal, or readoption of a regulation authorized by this paragraph is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement to describe specific facts showing the need for immediate action.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, "The Classification of Group Home Programs under the Standardized Schedule of Rates System," prepared by the State Department of Social Services, August 30, 1989.

(c) The rate for each RCL has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986–87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

(d) As used in this section, "standardized schedule of rates" means a listing of the 14 rate classification levels, and the single rate established for each RCL.

(e) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) (A) For new and existing providers requesting the establishment of an RCL, and for existing group home programs requesting an RCL increase, the department shall determine the RCL no later than 13 months after the effective date of the provisional rate. The determination of the RCL shall be based on a program audit of documentation and other information that verifies the level of care and supervision provided by the group home program during a period of the two full calendar months or 60 consecutive days, whichever is longer, preceding the date of the program audit, unless the group home program requests a lower RCL. The program audit shall not cover the first six months of operation under the provisional rate. Pending the department's issuance of the program audit report that determines the RCL for the group home program, the group home program shall be eligible to receive a provisional rate that shall be based on the level of care and service that the group home program proposes it will provide. The group home program shall be eligible to receive only the RCL determined by the department during the pendency of any appeal of the department's RCL determination.

(B) A group home program may apply for an increase in its RCL no earlier than two years from the date the department has determined the group home program's rate, unless the host county, the primary placing county, or a regional consortium of counties submits to the department in writing that the program is needed in that county, that the provider is capable of effectively and efficiently operating the proposed program, and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(C) To ensure efficient administration of the department's audit responsibilities, and to avoid the fraudulent creation of records, group home programs shall make records that are relevant to the RCL determination available to the department in a timely manner. Except as provided in this section, the department may refuse to consider, for purposes of determining the rate, any documents that



1 are relevant to the determination of the RCL that are not made  
2 available by the group home provider by the date the group home  
3 provider requests a hearing on the department's RCL  
4 determination. The department may refuse to consider, for purposes  
5 of determining the rate, the following records, unless the group  
6 home provider makes the records available to the department  
7 during the fieldwork portion of the department's program audit:

8 (i) Records of each employee's full name, home address,  
9 occupation, and social security number.

10 (ii) Time records showing when the employee begins and ends  
11 each work period, meal periods, split shift intervals, and total daily  
12 hours worked.

13 (iii) Total wages paid each payroll period.

14 (iv) Records required to be maintained by licensed group home  
15 providers under Title 22 of the California Code of Regulations  
16 that are relevant to the RCL determination.

17 (D) To minimize financial abuse in the startup of group home  
18 programs, when the department's RCL determination is more than  
19 three levels lower than the RCL level proposed by the group home  
20 provider, and the group home provider does not appeal the  
21 department's RCL determination, the department shall terminate  
22 the rate of a group home program 45 days after issuance of its  
23 program audit report. When the group home provider requests a  
24 hearing on the department's RCL determination, and the RCL  
25 determined by the director under subparagraph (E) is more than  
26 three levels lower than the RCL level proposed by the group home  
27 provider, the department shall terminate the rate of a group home  
28 program within 30 days of issuance of the director's decision.  
29 Notwithstanding the reapplication provisions in subparagraph (B),  
30 the department shall deny any request for a new or increased RCL  
31 from a group home provider whose RCL is terminated pursuant  
32 to this subparagraph, for a period of no greater than two years from  
33 the effective date of the RCL termination.

34 (E) A group home provider may request a hearing of the  
35 department's RCL determination under subparagraph (A) no later  
36 than 30 days after the date the department issues its RCL  
37 determination. The department's RCL determination shall be final  
38 if the group home provider does not request a hearing within the  
39 prescribed time. Within 60 days of receipt of the request for  
40 hearing, the department shall conduct a hearing on the RCL

determination. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department. The hearing officer shall issue the proposed decision within 45 days of the close of the evidentiary record. The director shall adopt, reject, or modify the proposed decision, or refer the matter back to the hearing officer for additional evidence or findings within 100 days of issuance of the proposed decision. If the director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall inform the department. The department shall develop regulations specifying procedures to be applied when a group home fails to maintain the level of services projected, including, but not limited to, rate reduction and recovery of overpayments.

(3) The department shall not reduce the rate, establish an overpayment, or take other actions pursuant to paragraph (2) for any period that a group home program maintains the level of care and services associated with the RCL for children actually residing in the facility. Determinations of levels of care and services shall be made in the same way as modifications of overpayments are made pursuant to paragraph (2) of subdivision (b) of Section 11466.2.

(4) A group home program that substantially changes its staffing pattern from that reported in the group home program statement shall provide notification of this change to all counties that have placed children currently in care. This notification shall be provided whether or not the RCL for the program may change as a result of the change in staffing pattern.

(f) (1) The standardized schedule of rates for the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, and 2007–08 fiscal years is:

Rate	Point Ranges	FY 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, and 2007-08
Classification		Standard Rate
Level		
1	Under 60	\$1,454
2	60- 89	1,835

1	3	90-119	2,210
2	4	120-149	2,589
3	5	150-179	2,966
4	6	180-209	3,344
5	7	210-239	3,723
6	8	240-269	4,102
7	9	270-299	4,479
8	10	300-329	4,858
9	11	330-359	5,234
10	12	360-389	5,613
11	13	390-419	5,994
12	14	420 & Up	6,371

(2) (A) For group home programs that receive AFDC-FC payments for services performed during the 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, and 2009-10 fiscal years, the adjusted RCL point ranges below shall be used for establishing the biennial rates for existing programs, pursuant to paragraph (3) of subdivision (a) and in performing program audits and in determining any resulting rate reduction, overpayment assessment, or other actions pursuant to paragraph (2) of subdivision (e):

Rate Classification	Adjusted Point Ranges for the 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, and 2009-10
Level	Fiscal Years
1	Under 54
2	54- 81
3	82-110
4	111-138
5	139-167
6	168-195
7	196-224
8	225-253
9	254-281
10	282-310
11	311-338
12	339-367

1                                   13                                   368-395  
 2                                   14                                   396 & Up

3  
 4       (B) Notwithstanding subparagraph (A), foster care providers  
 5       operating group homes during the 2002–03, 2003–04, 2004–05,  
 6       2005–06, 2006–07, 2007–08, 2008–09, and 2009–10 fiscal years  
 7       shall remain responsible for ensuring the health and safety of the  
 8       children placed in their programs in accordance with existing  
 9       applicable provisions of the Health and Safety Code and  
 10       community care licensing regulations, as contained in Title 22 of  
 11       the Code of California Regulations.

12       (C) Subparagraph (A) shall not apply to program audits of group  
 13       home programs with provisional rates established pursuant to  
 14       paragraph (1) of subdivision (e). For those program audits, the  
 15       RCL point ranges in paragraph (1) shall be used.

16       (D) Rates applicable for the 2009–10 fiscal year pursuant to the  
 17       act that adds this subparagraph shall be effective October 1, 2009.

18       (3) (A) For group home programs that receive AFDC-FC  
 19       payments for services performed during the 2009–10 fiscal year  
 20       ~~and subsequent fiscal years~~, the adjusted RCL point ranges below  
 21       shall be used for establishing the biennial rates for existing  
 22       programs, pursuant to paragraph (3) of subdivision (a) and in  
 23       performing program audits and in determining any resulting rate  
 24       reduction, overpayment assessment, or other actions pursuant to  
 25       paragraph (2) of subdivision (e):

Rate	Adjusted Point Ranges
Classification	for the 2009–10 <del>and</del>
Level	<del>Subsequent Fiscal Years</del> Fiscal Year
1	Under 39
2	39-64
3	65-90
4	91-115
5	116-141
6	142-167
7	168-192
8	193-218
9	219-244
10	245-270
11	271-295

1	12	296-321
2	13	322-347
3	14	348 & Up

4

5 (B) Notwithstanding subparagraph (A), foster care providers  
6 operating group homes during the ~~2009-10 fiscal~~ *2009-10 fiscal*  
7 ~~year and subsequent fiscal years~~ shall remain responsible for  
8 ensuring the health and safety of the children placed in their  
9 programs in accordance with existing applicable provisions of the  
10 Health and Safety Code and community care licensing regulations  
11 as contained in Title 22 of the California Code of Regulations.

12 (C) Subparagraph (A) shall not apply to program audits of group  
13 home programs with provisional rates established pursuant to  
14 paragraph (1) of subdivision (e). For those program audits, the  
15 RCL point ranges in paragraph (1) shall be used. ~~This paragraph~~  
16 ~~shall not be implemented on and after January 1, 2011, without~~  
17 ~~the enactment of subsequent statutory authorization.~~

18 (g) (1) (A) For the 1999-2000 fiscal year, the standardized  
19 rate for each RCL shall be adjusted by an amount equal to the  
20 California Necessities Index computed pursuant to the methodology  
21 described in Section 11453. The resultant amounts shall constitute  
22 the new standardized schedule of rates, subject to further  
23 adjustment pursuant to subparagraph (B).

24 (B) In addition to the adjustment in subparagraph (A),  
25 commencing January 1, 2000, the standardized rate for each RCL  
26 shall be increased by 2.36 percent, rounded to the nearest dollar.  
27 The resultant amounts shall constitute the new standardized  
28 schedule of rates.

29 (2) Beginning with the 2000-01 fiscal year, the standardized  
30 schedule of rates shall be adjusted annually by an amount equal  
31 to the CNI computed pursuant to Section 11453, subject to the  
32 availability of funds. The resultant amounts shall constitute the  
33 new standardized schedule of rates.

34 (3) Effective January 1, 2001, the amount included in the  
35 standard rate for each Rate Classification Level (RCL) for the  
36 salaries, wages, and benefits for staff providing child care and  
37 supervision or performing social work activities, or both, shall be  
38 increased by 10 percent. This additional funding shall be used by  
39 group home programs solely to supplement staffing, salaries,  
40 wages, and benefit levels of staff specified in this paragraph. The

1 standard rate for each RCL shall be recomputed using this adjusted  
2 amount and the resultant rates shall constitute the new standardized  
3 schedule of rates. The department may require a group home  
4 receiving this additional funding to certify that the funding was  
5 utilized in accordance with the provisions of this section.

6 (4) Effective January 1, 2008, the amount included in the  
7 standard rate for each RCL for the wages for staff providing child  
8 care and supervision or performing social work activities, or both,  
9 shall be increased by 5 percent, and the amount included for the  
10 payroll taxes and other employer-paid benefits for these staff shall  
11 be increased from 20.325 percent to 24 percent. The standard rate  
12 for each RCL shall be recomputed using these adjusted amounts,  
13 and the resulting rates shall constitute the new standardized  
14 schedule of rates.

15 (5) The new standardized schedule of rates as provided for in  
16 paragraph (4) shall be reduced by 10 percent, effective October 1,  
17 2009, and the resulting rates shall constitute the new standardized  
18 schedule of rates.

19 (6) The rates of licensed group home providers, whose rates are  
20 not established under the standardized schedule of rates, shall be  
21 reduced by 10 percent, effective October 1, 2009.

22 (h) The standardized schedule of rates pursuant to subdivisions  
23 (f) and (g) shall be implemented as follows:

24 (1) Any group home program that received an AFDC-FC rate  
25 in the prior fiscal year at or above the standard rate for the RCL  
26 in the current fiscal year shall continue to receive that rate.

27 (2) Any group home program that received an AFDC-FC rate  
28 in the prior fiscal year below the standard rate for the RCL in the  
29 current fiscal year shall receive the RCL rate for the current year.

30 (i) (1) The department shall not establish a rate for a new  
31 program of a new or existing provider, or for an existing program  
32 at a new location of an existing provider, unless the provider  
33 submits a letter of recommendation from the host county, the  
34 primary placing county, or a regional consortium of counties that  
35 includes all of the following:

36 (A) That the program is needed by that county.

37 (B) That the provider is capable of effectively and efficiently  
38 operating the program.

39 (C) That the provider is willing and able to accept AFDC-FC  
40 children for placement who are determined by the placing agency

1 to need the level of care and services that will be provided by the  
2 program.

3 (D) That, if the letter of recommendation is not being issued by  
4 the host county, the primary placing county has notified the host  
5 county of its intention to issue the letter and the host county was  
6 given the opportunity 30 days to respond to this notification and  
7 to discuss options with the primary placing county.

8 (2) The department shall encourage the establishment of  
9 consortia of county placing agencies on a regional basis for the  
10 purpose of making decisions and recommendations about the need  
11 for, and use of, group home programs and other foster care  
12 providers within the regions.

13 (3) The department shall annually conduct a county-by-county  
14 survey to determine the unmet placement needs of children placed  
15 pursuant to Section 300 and Section 601 or 602, and shall publish  
16 its findings by November 1 of each year.

17 (j) The department shall develop regulations specifying  
18 ratesetting procedures for program expansions, reductions, or  
19 modifications, including increases or decreases in licensed capacity,  
20 or increases or decreases in level of care or services.

21 (k) (1) For the purpose of this subdivision, “program change”  
22 means any alteration to an existing group home program planned  
23 by a provider that will increase the RCL or AFDC-FC rate. An  
24 increase in the licensed capacity or other alteration to an existing  
25 group home program that does not increase the RCL or AFDC-FC  
26 rate shall not constitute a program change.

27 (2) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the  
28 rate for a group home program shall not increase, as the result of  
29 a program change, from the rate established for the program  
30 effective July 1, 2000, and as adjusted pursuant to subparagraph  
31 (B) of paragraph (1) of subdivision (g), except as provided in  
32 paragraph (3).

33 (3) (A) For the 1998–99, 1999–2000, and 2000–01 fiscal years,  
34 the department shall not establish a rate for a new program of a  
35 new or existing provider or approve a program change for an  
36 existing provider that either increases the program’s RCL or  
37 AFDC-FC rate, or increases the licensed capacity of the program  
38 as a result of decreases in another program with a lower RCL or  
39 lower AFDC-FC rate that is operated by that provider, unless both  
40 of the following conditions are met:

1 (i) The licensee obtains a letter of recommendation from the  
2 host county, primary placing county, or regional consortium of  
3 counties regarding the proposed program change or new program.

4 (ii) The county determines that there is no increased cost to the  
5 General Fund.

6 (B) Notwithstanding subparagraph (A), the department may  
7 grant a request for a new program or program change, not to exceed  
8 25 beds, statewide, if both of the following conditions are met:

9 (i) The licensee obtains a letter of recommendation from the  
10 host county, primary placing county, or regional consortium of  
11 counties regarding the proposed program change or new program.

12 (ii) The department determines that the new program or program  
13 change will result in a reduction of referrals to state hospitals  
14 during the 1998–99 fiscal year.

15 (l) General unrestricted or undesignated private charitable  
16 donations and contributions made to charitable or nonprofit  
17 organizations shall not be deducted from the cost of providing  
18 services pursuant to this section. The donations and contributions  
19 shall not be considered in any determination of maximum  
20 expenditures made by the department.

21 (m) The department shall, by October 1 of each year,  
22 commencing October 1, 1992, provide the Joint Legislative Budget  
23 Committee with a list of any new departmental requirements  
24 established during the previous fiscal year concerning the operation  
25 of group homes, and of any unusual, industrywide increase in costs  
26 associated with the provision of group care that may have  
27 significant fiscal impact on providers of group homes care. The  
28 committee may, in fiscal year 1993–94 and beyond, use the list to  
29 determine whether an appropriation for rate adjustments is needed  
30 in the subsequent fiscal year.

31 *SEC. 5.5. Section 11463 of the Welfare and Institutions Code*  
32 *is amended to read:*

33 11463. (a) (1) The department, with the advice, assistance,  
34 and cooperation of the counties and foster care providers, shall  
35 develop, implement, and maintain a ratesetting system for foster  
36 family agencies.

37 (2) No county shall be reimbursed for any percentage increases  
38 in payments, made on behalf of AFDC-FC funded children who  
39 are placed with foster family agencies, that exceed the percentage



1 cost-of-living increase provided in any fiscal year beginning on  
2 January 1, 1990, as specified in subdivision (c) of Section 11461.

3 (b) The department shall develop regulations specifying the  
4 purposes, types, and services of foster family agencies, including  
5 the use of those agencies for the provision of emergency shelter  
6 care. A distinction, for ratesetting purposes, shall be drawn between  
7 foster family agencies that provide treatment of children in foster  
8 families and those that provide nontreatment services.

9 (c) The department shall develop and maintain regulations  
10 specifying the procedure for the appeal of department decisions  
11 about the setting of an agency's rate.

12 (d) On and after July 1, 1998, the schedule of rates, and the  
13 components used in the rate calculations specified in the  
14 department's regulations, for foster family agencies shall be  
15 increased by 6 percent, rounded to the nearest dollar. The resultant  
16 amounts shall constitute the new schedule of rates for foster family  
17 agencies.

18 (e) (1) On and after July 1, 1999, the schedule of rates and the  
19 components used in the rate calculations specified in the  
20 department's regulations for foster family agencies shall be  
21 adjusted by an amount equal to the California Necessities Index  
22 computed pursuant to Section 11453, rounded to the nearest dollar,  
23 subject to the availability of funds. The resultant amounts shall  
24 constitute the new schedule of rates for foster family agencies,  
25 subject to further adjustment pursuant to paragraph (2).

26 (2) In addition to the adjustment specified in paragraph (1),  
27 commencing January 1, 2000, the schedule of rates and the  
28 components used in the rate calculations specified in the  
29 department's regulations for foster family agencies shall be  
30 increased by 2.36 percent, rounded to the nearest dollar. The  
31 resultant amounts shall constitute the new schedule of rates for  
32 foster family agencies.

33 (f) For the 1999–2000 fiscal year, foster family agency rates  
34 that are not determined by the schedule of rates set forth in the  
35 department's regulations, shall be increased by the same percentage  
36 as provided in subdivision (e).

37 (g) For the 2000–01 fiscal year and each fiscal year thereafter,  
38 without a county share of cost, notwithstanding subdivision (c) of  
39 Section 15200, the foster family agency rate shall be supplemented  
40 by one hundred dollars (\$100) for clothing per year per child in

1 care, subject to the availability of funds. The supplemental payment  
2 shall be used to supplement, and shall not be used to supplant, any  
3 clothing allowance paid in addition to the foster family agency  
4 rate.

5 (h) In addition to the adjustment made pursuant to subdivision  
6 (e), the component for social work activities in the rate calculation  
7 specified in the department's regulations for foster family agencies  
8 shall be increased by 10 percent, effective January 1, 2001. This  
9 additional funding shall be used by foster family agencies solely  
10 to supplement staffing, salaries, wages, and benefit levels of staff  
11 performing social work activities. The schedule of rates shall be  
12 recomputed using the adjusted amount for social work activities.  
13 The resultant amounts shall constitute the new schedule of rates  
14 for foster family agencies. The department may require a foster  
15 family agency receiving this additional funding to certify that the  
16 funding was utilized in accordance with the provisions of this  
17 section.

18 (i) The increased rate provided by subparagraph (C) of paragraph  
19 (1) of subdivision (d) of Section 11461 shall not be used to compute  
20 the monthly amount that may be paid to licensed foster family  
21 agencies for the placement of children in certified foster homes.

22 (j) The total foster family agency rate by age group in effect as  
23 of January 1, 2008, paid to licensed foster family agencies for the  
24 placement of children in certified foster family homes, shall be  
25 reduced by 10 percent, effective October 1, 2009. *The foster family*  
26 *agency shall have flexibility in applying the reduction, however,*  
27 *no more than 10 percent shall be deducted from the child base*  
28 *and increment, as defined in departmental regulations.*

29 (k) *Effective October 1, 2009, the total foster family agency rate*  
30 *by age group, in effect for those agency rates that are not*  
31 *determined by the schedule of rates set forth in the department's*  
32 *regulations, shall be reduced by the same percentage and in the*  
33 *same manner as provided for in subdivision (j).*

34 ~~(k)~~

35 (l) (1) The department shall determine, consistent with the  
36 requirements of this section and other relevant requirements under  
37 law, the rate category for each foster family agency on a biennial  
38 basis. Submission of the biennial rate application shall be according  
39 to a schedule determined by the department.

(2) The department shall adopt regulations to implement this subdivision. The adoption, amendment, repeal, or readoption of a regulation authorized by this subdivision is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement to describe specific facts showing the need for immediate action.

SEC. 6. Section 16010.2 is added to the Welfare and Institutions Code, to read:

16010.2. The department, in consultation with pediatricians, other health care experts, including public health nurses, and experts in and recipients of child welfare services, including parents, shall develop a plan for the ongoing oversight and coordination of health care services for a child in a foster care placement. The plan shall ensure a coordinated strategy to identify and respond to the health care needs of foster children, including mental health and dental needs, consistent with Section 205 of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351).

SEC. 7. Section 16119 of the Welfare and Institutions Code is amended to read:

16119. (a) At the time application for adoption of a child who is potentially eligible for Adoption Assistance Program benefits is made, and at the time immediately prior to the finalization of the adoption decree, the department or the licensed adoption agency, whichever is appropriate, shall provide the prospective adoptive family with information, in writing, on the availability of Adoption Assistance Program benefits, with an explanation of the difference between these benefits and foster care payments. The department or the licensed adoption agency shall also provide the prospective adoptive family with information, in writing, on the availability of reimbursement for the nonrecurring expenses incurred in the adoption of the Adoption Assistance Program eligible child. The department or licensed adoption agency shall also provide the prospective adoptive family with information on the availability of mental health services through the Medi-Cal program or other programs. The department or licensed adoption agency shall also provide information regarding the federal adoption tax credit for any individual who is adopting or

1 considering adopting a child in foster care, in accordance with  
2 Section 403 of the federal Fostering Connections to Success and  
3 Increasing Adoptions Act of 2008 (Public Law 110-351).

4 (b) The department or the licensed agency shall encourage  
5 families that elect not to sign an adoption assistance agreement to  
6 sign a deferred adoption assistance agreement.

7 (c) The department or the county, whichever is responsible for  
8 determining the child's eligibility for the Adoption Assistance  
9 Program, shall assess the needs of the child and the circumstances  
10 of the family.

11 (d) (1) The amount of an adoption assistance cash benefit, if  
12 any, shall be a negotiated amount based upon the needs of the child  
13 and the circumstances of the family. There shall be no means test  
14 used to determine an adoptive family's eligibility for the Adoption  
15 Assistance Program, or the amount of adoption assistance  
16 payments. In those instances where an otherwise eligible child  
17 does not require a cash benefit, Medi-Cal eligibility may be  
18 established for the child, as needed.

19 (2) For purposes of paragraph (1), "circumstances of the family"  
20 includes the family's ability to incorporate the child into the  
21 household in relation to the lifestyle, standard of living, and future  
22 plans and to the overall capacity to meet the immediate and future  
23 plans and needs, including education, of the child.

24 (e) The department or the licensed adoption agency shall inform  
25 the prospective adoptive family regarding the county responsible  
26 for providing financial aid to the adoptive family in an amount  
27 determined pursuant to Sections 16120 and 16120.1.

28 (f) The department or the licensed adoption agency shall inform  
29 the prospective adoptive family that the adoptive parents will  
30 continue to receive benefits in the agreed upon amount unless one  
31 of the following occurs:

32 (1) The department determines that the adoptive parents are no  
33 longer legally responsible for the support of the child.

34 (2) The department determines that the child is no longer  
35 receiving support from the adoptive family.

36 (3) The adoption assistance payment exceeds the amount that  
37 the child would have been eligible for in a licensed foster home.

38 (4) The adoptive parents demonstrate a need for an increased  
39 payment.

1 (5) The adoptive parents voluntarily reduce or terminate  
2 payments.

3 (6) The adopted child has an extraordinary need that was not  
4 anticipated at the time the amount of the adoption assistance was  
5 originally negotiated.

6 SEC. 7.5. Section 16119 of the Welfare and Institutions Code  
7 is amended to read:

8 16119. (a) At the time application for adoption of a child who  
9 is potentially eligible for Adoption Assistance Program benefits  
10 is made, and at the time immediately prior to the finalization of  
11 the adoption decree, the department or the licensed adoption  
12 agency, whichever is appropriate, shall provide the prospective  
13 adoptive family with information, in writing, on the availability  
14 of Adoption Assistance Program benefits, with an explanation of  
15 the difference between these benefits and foster care payments.  
16 The department or the licensed adoption agency shall also provide  
17 the prospective adoptive family with information, in writing, on  
18 the availability of reimbursement for the nonrecurring expenses  
19 incurred in the adoption of the Adoption Assistance Program  
20 eligible child. The department or licensed adoption agency shall  
21 also provide the prospective adoptive family with information on  
22 the availability of mental health services through the Medi-Cal  
23 program or other programs. The department or licensed adoption  
24 agency shall also provide information regarding the federal  
25 adoption tax credit for any individual who is adopting or  
26 considering adopting a child in foster care, in accordance with  
27 Section 403 of the federal Fostering Connections to Success and  
28 Increasing Adoptions Act of 2008 (Public Law 110-351).

29 (b) The department or the licensed agency shall encourage  
30 families that elect not to sign an adoption assistance agreement to  
31 sign a deferred adoption assistance agreement.

32 (c) The department or the county, whichever is responsible for  
33 determining the child's eligibility for the Adoption Assistance  
34 Program, shall assess the needs of the child and the circumstances  
35 of the family.

36 (d) (1) The amount of an adoption assistance cash benefit, if  
37 any, shall be a negotiated amount based upon the needs of the child  
38 and the circumstances of the family. There shall be no means test  
39 used to determine an adoptive family's eligibility for the Adoption  
40 Assistance Program, or the amount of adoption assistance

1 payments. In those instances where an otherwise eligible child  
2 does not require a cash benefit, Medi-Cal eligibility may be  
3 established for the child, as needed.

4 (2) For purposes of paragraph (1), “circumstances of the family”  
5 includes the family’s ability to incorporate the child into the  
6 household in relation to the lifestyle, standard of living, and future  
7 plans and to the overall capacity to meet the immediate and future  
8 plans and needs, including education, of the child.

9 (e) The department or the licensed adoption agency shall inform  
10 the prospective adoptive family regarding the county responsible  
11 for providing financial aid to the adoptive family in an amount  
12 determined pursuant to Sections 16120 and 16120.1.

13 (f) The department or the licensed adoption agency shall inform  
14 the prospective adoptive family that the adoptive parents will  
15 continue to receive benefits in the agreed upon amount unless one  
16 of the following occurs:

17 (1) The department determines that the adoptive parents are no  
18 longer legally responsible for the support of the child.

19 (2) The department determines that the child is no longer  
20 receiving support from the adoptive family.

21 (3) The adoption assistance payment exceeds the amount that  
22 the child would have been eligible for in a licensed foster home.

23 (4) The adoptive parents demonstrate a need for an increased  
24 payment.

25 (5) The adoptive parents voluntarily reduce or terminate  
26 payments.

27 (6) The adopted child has an extraordinary need that was not  
28 anticipated at the time the amount of the adoption assistance was  
29 originally negotiated.

30 (g) The department or licensed adoption agency shall inform  
31 the prospective adoptive family of their potential eligibility for a  
32 federal tax credit under Section 23 of the Internal Revenue Code  
33 of 1986 (26 U.S.C. Sec. 23) and a state tax credit under Section  
34 17052.25 of the Revenue and Taxation Code.

35 SEC. 8. Section 16120.1 of the Welfare and Institutions Code  
36 is amended to read:

37 16120.1. Upon the authorization of the department or, where  
38 appropriate, the county responsible for determining the child’s  
39 Adoption Assistance Program eligibility status and for providing  
40 financial aid, the responsible county shall directly reimburse

1 eligible individuals for reasonable nonrecurring expenses, as  
2 defined by the department, incurred as a result of the adoption of  
3 a special needs child, as defined in subdivisions (a) to (c), inclusive,  
4 and subdivision (l), of Section 16120. The state shall provide  
5 payment to the county for the reimbursement. Reimbursements  
6 shall conform to the eligibility criteria and claiming procedures  
7 established by the department and shall be subject to the following  
8 conditions:

9 (a) The amount of the payment shall be determined through  
10 agreement between the adopting parent or parents and the  
11 department or the county responsible for determining the child's  
12 Adoption Assistance Program eligibility status and for providing  
13 financial aid. The agreement shall indicate the nature and the  
14 amount of the nonrecurring expenses to be paid. Payments shall  
15 be limited to an amount not to exceed four hundred dollars (\$400)  
16 for each placement eligible for the Adoption Assistance Program.

17 (b) There shall be no income eligibility requirement for an  
18 adoptive parent or adoptive parents in determining whether  
19 payments for nonrecurring expenses shall be made.

20 (c) Reimbursement for nonrecurring expenses shall be limited  
21 to costs incurred by or on behalf of an adoptive parent or adoptive  
22 parents that are not reimbursed from other sources. No payments  
23 shall be made under this section if the federal program for  
24 reimbursement of nonrecurring expenses for the adoption of  
25 children eligible for the Adoption Assistance Program pursuant to  
26 Section 673 of Title 42 of the United States Code is terminated.

27 (d) Reimbursement for nonrecurring expenses shall be in  
28 addition to any adoption expenses paid pursuant to Section 16121  
29 and shall not be included in the computation of maximum benefits  
30 for which the adoptive family is eligible pursuant to Section 16121.

31 SEC. 9. Section 16121 of the Welfare and Institutions Code is  
32 amended to read:

33 16121. (a) In accordance with the adoption assistance  
34 agreement, the adoptive family shall be paid an amount of aid  
35 based on the child's needs otherwise covered in AFDC-FC  
36 payments and the circumstance of the adopting parents but that  
37 shall not exceed the foster care maintenance payment that would  
38 have been paid based on the age related state-approved foster  
39 family home care rate, and any applicable specialized care  
40 increment, for a child placed in a licensed or approved family home

1 pursuant to subdivisions (a) to (d), inclusive, of Section 11461.  
2 This subdivision shall only apply to adoption assistance agreements  
3 executed before January 1, 2010.

4 (1) Notwithstanding any other provision of this section, for  
5 adoption assistance agreements executed on or after January 1,  
6 2010, the adoptive family shall be paid an amount of aid based on  
7 the child's needs otherwise covered in AFDC-FC payments and  
8 the circumstance of the adopting parents, but that amount shall not  
9 exceed the foster care maintenance payment, and any applicable  
10 specialized care increment, that the child received while placed in  
11 a licensed or approved family home pursuant to subdivisions (a)  
12 to (d), inclusive, of Section 11461.

13 (2) For adoption assistance agreements executed on or after  
14 January 1, 2010, adoption assistance benefits shall not be increased  
15 based on age, as occurs for foster family homes pursuant to  
16 subdivisions (a) to (d), inclusive, of Section 11461. This paragraph  
17 shall not preclude any reassessments of the child's needs, consistent  
18 with other provisions of this chapter.

19 (b) Payment may be made on behalf of an otherwise eligible  
20 child in a state-approved group home or residential care treatment  
21 facility if the department or county responsible for determining  
22 payment has confirmed that the placement is necessary for the  
23 temporary resolution of mental or emotional problems related to  
24 a condition that existed prior to the adoptive placement.  
25 Out-of-home placements shall be in accordance with the applicable  
26 provisions of Chapter 3 (commencing with Section 1500) of  
27 Division 2 of the Health and Safety Code and other applicable  
28 statutes and regulations governing eligibility for AFDC-FC  
29 payments for placements in in-state and out-of-state facilities. The  
30 designation of the placement facility shall be made after  
31 consultation with the family by the department or county welfare  
32 agency responsible for determining the Adoption Assistance  
33 Program (AAP) eligibility and authorizing financial aid. Group  
34 home or residential placement shall only be made as part of a plan  
35 for return of the child to the adoptive family, that shall actively  
36 participate in the plan. Adoption Assistance Program benefits may  
37 be authorized for payment for an eligible child's group home or  
38 residential treatment facility placement if the placement is justified  
39 by a specific episode or condition and does not exceed an 18-month  
40 cumulative period of time. After an initial authorized group home



1 or residential treatment facility placement, subsequent  
2 authorizations for payment for a group home or residential  
3 treatment facility placement may be based on an eligible child's  
4 subsequent specific episodes or conditions.

5 (c) (1) Payments on behalf of a child who is a recipient of AAP  
6 benefits who is also a consumer of regional center services shall  
7 be based on the rates established by the State Department of Social  
8 Services pursuant to Section 11464 and subject to the process  
9 described in paragraph (1) of subdivision (d) of Section 16119.

10 (2) (A) Except as provided for in subparagraph (B), this  
11 subdivision shall apply to adoption assistance agreements signed  
12 on or after July 1, 2007.

13 (B) Rates paid on behalf of regional center consumers who are  
14 recipients of AAP benefits and for whom an adoption assistance  
15 agreement was executed before July 1, 2007, shall remain in effect,  
16 and may only be changed in accordance with Section 16119.

17 (i) If the rates paid pursuant to adoption assistance agreements  
18 executed before July 1, 2007, are lower than the rates specified in  
19 paragraph (1) of subdivision (c) or paragraph (1) of subdivision  
20 (d) of Section 11464, respectively, those rates shall be increased,  
21 as appropriate and in accordance with Section 16119, to the amount  
22 set forth in paragraph (1) of subdivision (c) or paragraph (1) of  
23 subdivision (d) of Section 11464, effective July 1, 2007. Once set,  
24 the rates shall remain in effect and may only be changed in  
25 accordance with Section 16119.

26 (ii) For purposes of this clause, for a child who is a recipient of  
27 AAP benefits or for whom the execution of an AAP agreement is  
28 pending, and who has been deemed eligible for or has sought an  
29 eligibility determination for regional center services pursuant to  
30 subdivision (a) of Section 4512, and for whom a determination of  
31 eligibility for those regional center services has been made, and  
32 for whom, prior to July 1, 2007, a maximum rate determination  
33 has been requested and is pending, the rate shall be determined  
34 through an individualized assessment and pursuant to subparagraph  
35 (C) of paragraph (1) of subdivision (c) of Section 35333 of Title  
36 22 of the California Code of Regulations as in effect on January  
37 1, 2007, or the rate established in subdivision (b) of Section 11464,  
38 whichever is greater. Once the rate has been set, it shall remain in  
39 effect and may only be changed in accordance with Section 16119.  
40 Other than the circumstances described in this clause, regional

1 centers shall not make maximum rate benefit determinations for  
2 the AAP.

3 (3) Regional centers shall separately purchase or secure the  
4 services contained in the child's IFSP or IPP, pursuant to Section  
5 4684.

6 (4) Regulations adopted by the department pursuant to this  
7 subdivision shall be adopted as emergency regulations in  
8 accordance with Chapter 3.5 (commencing with Section 11340)  
9 of Part 1 of Division 3 of Title 2 of the Government Code, and for  
10 the purposes of that chapter, including Section 11349.6 of the  
11 Government Code, the adoption of these regulations is an  
12 emergency and shall be considered by the Office of Administrative  
13 Law as necessary for the immediate preservation of the public  
14 peace, health, safety, and general welfare. The regulations  
15 authorized by this paragraph shall remain in effect for no more  
16 than 180 days, by which time final regulations shall be adopted.

17 (d) (1) In the event that a family signs an adoption assistance  
18 agreement where a cash benefit is not awarded, the adopting family  
19 shall be otherwise eligible to receive Medi-Cal benefits for the  
20 child if it is determined that the benefits are needed pursuant to  
21 this chapter.

22 (2) Regional centers shall separately purchase or secure the  
23 services that are contained in the child's Individualized Family  
24 Service Plan (IFSP) or Individual Program Plan (IPP) pursuant to  
25 Section 4684.

26 (e) Subdivisions (a), (b), and (d) shall apply only to adoption  
27 assistance agreements signed on or after October 1, 1992.

28 (f) This section shall supersede the requirements of subparagraph  
29 (C) of paragraph (1) of Section 35333 of Title 22 of the California  
30 Code of Regulations.

31 SEC. 10. Section 16121.05 of the Welfare and Institutions  
32 Code is amended to read:

33 16121.05. (a) The department may recover any overpayments  
34 of financial assistance under the Adoption Assistance Program,  
35 and shall develop regulations that establish the means to recoup  
36 them, including an appropriate notice of action and appeal rights,  
37 when the department determines either of the following applies:

38 (1) The adoptive parents are no longer legally responsible for  
39 the support of the child.

1 (2) The child is no longer receiving support from the adoptive  
2 family.

3 (3) The adoptive family has committed fraud in its application  
4 for, or reassessment of, the adoption assistance.

5 (b) Children on whose behalf an adoption assistance agreement  
6 had been executed prior to October 1, 1992, shall continue to  
7 receive adoption assistance in accordance with the terms of that  
8 agreement.

9 (c) Payment shall begin on or after the effective date of an  
10 adoption assistance agreement, or a deferred adoption assistance  
11 agreement, or a final decree of adoption, provided that the adoption  
12 assistance agreement has been signed by all required parties prior  
13 to or at the time the adoption decree is issued by the court. The  
14 amount and duration of assistance shall not be changed without  
15 the concurrence of the adoptive parents, unless any of the following  
16 has occurred:

17 (1) The child has attained 18 years of age, or 21 years of age  
18 where the child has a mental or physical disability that warrants  
19 the continuation of assistance.

20 (2) The adoptive parents are no longer legally responsible for  
21 the support of the child.

22 (3) The child is no longer receiving any support from adoptive  
23 parents.

24 SEC. 11. Section 16501.1 of the Welfare and Institutions Code  
25 is amended to read:

26 16501.1. (a) (1) The Legislature finds and declares that the  
27 foundation and central unifying tool in child welfare services is  
28 the case plan.

29 (2) The Legislature further finds and declares that a case plan  
30 ensures that the child receives protection and safe and proper care  
31 and case management, and that services are provided to the child  
32 and parents or other caretakers, as appropriate, in order to improve  
33 conditions in the parent's home, to facilitate the safe return of the  
34 child to a safe home or the permanent placement of the child, and  
35 to address the needs of the child while in foster care.

36 (b) (1) A case plan shall be based upon the principles of this  
37 section and shall document that a preplacement assessment of the  
38 service needs of the child and family, and preplacement preventive  
39 services, have been provided, and that reasonable efforts to prevent  
40 out-of-home placement have been made.

1 (2) In determining the reasonable services to be offered or  
2 provided, the child's health and safety shall be the paramount  
3 concerns.

4 (3) Reasonable services shall be offered or provided to make it  
5 possible for a child to return to a safe home environment, unless,  
6 pursuant to subdivisions (b) and (e) of Section 361.5, the court  
7 determines that reunification services shall not be provided.

8 (4) If reasonable services are not ordered, or are terminated,  
9 reasonable efforts shall be made to place the child in a timely  
10 manner in accordance with the permanent plan and to complete  
11 all steps necessary to finalize the permanent placement of the child.

12 (c) (1) If out-of-home placement is used to attain case plan  
13 goals, the decision regarding choice of placement shall be based  
14 upon selection of a safe setting that is the least restrictive or most  
15 familylike and the most appropriate setting that is available and  
16 in close proximity to the parent's home, proximity to the child's  
17 school, consistent with the selection of the environment best suited  
18 to meet the child's special needs and best interests, or both. The  
19 selection shall consider, in order of priority, placement with  
20 relatives, tribal members, and foster family, group care, and  
21 residential treatment pursuant to Section 7950 of the Family Code.

22 (2) In addition to the requirements of paragraph (1), and taking  
23 into account other statutory considerations regarding placement,  
24 the selection of the most appropriate home that will meet the child's  
25 special needs and best interests shall also promote educational  
26 stability by taking into consideration proximity to the child's school  
27 attendance area.

28 (d) A written case plan shall be completed within a maximum  
29 of 60 days of the initial removal of the child or of the in-person  
30 response required under subdivision (f) of Section 16501 if the  
31 child has not been removed from his or her home, or by the date  
32 of the dispositional hearing pursuant to Section 358, whichever  
33 occurs first. The case plan shall be updated as the service needs  
34 of the child and family dictate. At a minimum, the case plan shall  
35 be updated in conjunction with each status review hearing  
36 conducted pursuant to Section 366.21, and the hearing conducted  
37 pursuant to Section 366.26, but no less frequently than once every  
38 six months. Each updated case plan shall include a description of  
39 the services that have been provided to the child under the plan

1 and an evaluation of the appropriateness and effectiveness of those  
2 services.

3 (1) It is the intent of the Legislature that extending the maximum  
4 time available for preparing a written case plan from 30 to 60 days  
5 will afford caseworkers time to actively engage families, and to  
6 solicit and integrate into the case plan the input of the child and  
7 the child's family, as well as the input of relatives and other  
8 interested parties.

9 (2) The extension of the maximum time available for preparing  
10 a written case plan from the 30 to 60 days shall be effective 90  
11 days after the date that the department gives counties written notice  
12 that necessary changes have been made to the Child Welfare  
13 Services Case Management System to account for the 60-day  
14 timeframe for preparing a written case plan.

15 (e) The child welfare services case plan shall be comprehensive  
16 enough to meet the juvenile court dependency proceedings  
17 requirements pursuant to Article 6 (commencing with Section 300)  
18 of Chapter 2 of Part 1 of Division 2.

19 (f) The case plan shall be developed as follows:

20 (1) The case plan shall be based upon an assessment of the  
21 circumstances that required child welfare services intervention.  
22 The child shall be involved in developing the case plan as age and  
23 developmentally appropriate.

24 (2) The case plan shall identify specific goals and the  
25 appropriateness of the planned services in meeting those goals.

26 (3) The case plan shall identify the original allegations of abuse  
27 or neglect, as defined in Article 2.5 (commencing with Section  
28 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the  
29 conditions cited as the basis for declaring the child a dependent of  
30 the court pursuant to Section 300, or all of these, and the other  
31 precipitating incidents that led to child welfare services  
32 intervention.

33 (4) The case plan shall include a description of the schedule of  
34 the social worker contacts with the child and the family or other  
35 caretakers. The frequency of these contacts shall be in accordance  
36 with regulations adopted by the State Department of Social  
37 Services. If the child has been placed in foster care out of state,  
38 the county social worker or a social worker on the staff of the  
39 social services agency in the state in which the child has been  
40 placed shall visit the child in a foster family home or the home of

1 a relative, consistent with federal law and in accordance with the  
2 department's approved state plan. For children in out-of-state group  
3 home facilities, visits shall be conducted at least monthly, pursuant  
4 to Section 16516.5. At least once every six months, at the time of  
5 a regularly scheduled social worker contact with the foster child,  
6 the child's social worker shall inform the child of his or her rights  
7 as a foster child, as specified in Section 16001.9. The social worker  
8 shall provide the information to the child in a manner appropriate  
9 to the age or developmental level of the child.

10 (5) (A) When out-of-home services are used, the frequency of  
11 contact between the natural parents or legal guardians and the child  
12 shall be specified in the case plan. The frequency of those contacts  
13 shall reflect overall case goals, and consider other principles  
14 outlined in this section.

15 (B) Information regarding any court-ordered visitation between  
16 the child and the natural parents or legal guardians, and the terms  
17 and conditions needed to facilitate the visits while protecting the  
18 safety of the child, shall be provided to the child's out-of-home  
19 caregiver as soon as possible after the court order is made.

20 (6) When out-of-home placement is made, the case plan shall  
21 include provisions for the development and maintenance of sibling  
22 relationships as specified in subdivisions (b), (c), and (d) of Section  
23 16002. If appropriate, when siblings who are dependents of the  
24 juvenile court are not placed together, the social worker for each  
25 child, if different, shall communicate with each of the other social  
26 workers and ensure that the child's siblings are informed of  
27 significant life events that occur within their extended family.  
28 Unless it has been determined that it is inappropriate in a particular  
29 case to keep siblings informed of significant life events that occur  
30 within the extended family, the social worker shall determine the  
31 appropriate means and setting for disclosure of this information  
32 to the child commensurate with the child's age and emotional  
33 well-being. These significant life events shall include, but shall  
34 not be limited to, the following:

35 (A) The death of an immediate relative.

36 (B) The birth of a sibling.

37 (C) Significant changes regarding a dependent child, unless the  
38 child objects to the sharing of the information with his or her  
39 siblings, including changes in placement, major medical or mental

1 health diagnoses, treatments, or hospitalizations, arrests, and  
2 changes in the permanent plan.

3 (7) If out-of-home placement is made in a foster family home,  
4 group home, or other child care institution that is either a  
5 substantial distance from the home of the child's parent or out of  
6 state, the case plan shall specify the reasons why that placement  
7 is in the best interest of the child. When an out-of-state group home  
8 placement is recommended or made, the case plan shall, in  
9 addition, specify compliance with Section 7911.1 of the Family  
10 Code.

11 (8) Effective January 1, 2010, a case plan shall ensure the  
12 educational stability of the child while in foster care and shall  
13 include both of the following:

14 (A) An assurance that the placement takes into account the  
15 appropriateness of the current educational setting and the proximity  
16 to the school in which the child is enrolled at the time of placement.

17 (B) An assurance that the placement agency has coordinated  
18 with appropriate local educational agencies to ensure that the child  
19 remains in the school in which the child is enrolled at the time of  
20 placement, or, if remaining in that school is not in the best interests  
21 of the child, assurances by the placement agency and the local  
22 educational agency to provide immediate and appropriate  
23 enrollment in a new school and to provide all of the child's  
24 educational records to the new school.

25 (9) (A) If out-of-home services are used, or if parental rights  
26 have been terminated and the case plan is placement for adoption,  
27 the case plan shall include a recommendation regarding the  
28 appropriateness of unsupervised visitation between the child and  
29 any of the child's siblings. This recommendation shall include a  
30 statement regarding the child's and the siblings' willingness to  
31 participate in unsupervised visitation. If the case plan includes a  
32 recommendation for unsupervised sibling visitation, the plan shall  
33 also note that information necessary to accomplish this visitation  
34 has been provided to the child or to the child's siblings.

35 (B) Information regarding the schedule and frequency of the  
36 visits between the child and siblings, as well as any court-ordered  
37 terms and conditions needed to facilitate the visits while protecting  
38 the safety of the child, shall be provided to the child's out-of-home  
39 caregiver as soon as possible after the court order is made.

1 (10) If out-of-home services are used and the goal is  
2 reunification, the case plan shall describe the services to be  
3 provided to assist in reunification and the services to be provided  
4 concurrently to achieve legal permanency if efforts to reunify fail.  
5 The plan shall also consider in-state and out-of-state placements,  
6 the importance of developing and maintaining sibling relationships  
7 pursuant to Section 16002, and the desire and willingness of the  
8 caregiver to provide legal permanency for the child if reunification  
9 is unsuccessful.

10 (11) If out-of-home services are used, the child has been in care  
11 for at least 12 months, and the goal is not adoptive placement, the  
12 case plan shall include documentation of the compelling reason  
13 or reasons why termination of parental rights is not in the child's  
14 best interest. A determination completed or updated within the  
15 past 12 months by the department when it is acting as an adoption  
16 agency or by a licensed adoption agency that it is unlikely that the  
17 child will be adopted, or that one of the conditions described in  
18 paragraph (1) of subdivision (c) of Section 366.26 applies, shall  
19 be deemed a compelling reason.

20 (12) (A) Parents and legal guardians shall have an opportunity  
21 to review the case plan, and to sign it whenever possible, and then  
22 shall receive a copy of the plan. In any voluntary service or  
23 placement agreement, the parents or legal guardians shall be  
24 required to review and sign the case plan. Whenever possible,  
25 parents and legal guardians shall participate in the development  
26 of the case plan.

27 (B) Parents and legal guardians shall be advised that, pursuant  
28 to Section 1228.1 of the Evidence Code, neither their signature on  
29 the child welfare services case plan nor their acceptance of any  
30 services prescribed in the child welfare services case plan shall  
31 constitute an admission of guilt or be used as evidence against the  
32 parent or legal guardian in a court of law. However, they shall also  
33 be advised that the parent's or guardian's failure to cooperate,  
34 except for good cause, in the provision of services specified in the  
35 child welfare services case plan may be used in any hearing held  
36 pursuant to Section 366.21 or 366.22 as evidence.

37 (13) A child shall be given a meaningful opportunity to  
38 participate in the development of the case plan and state his or her  
39 preference for foster care placement. A child who is 12 years of  
40 age or older and in a permanent placement shall also be given the



1 opportunity to review the case plan, sign the case plan, and receive  
2 a copy of the case plan.

3 (14) The case plan shall be included in the court report and shall  
4 be considered by the court at the initial hearing and each review  
5 hearing. Modifications to the case plan made during the period  
6 between review hearings need not be approved by the court if the  
7 casework supervisor for that case determines that the modifications  
8 further the goals of the plan. If out-of-home services are used with  
9 the goal of family reunification, the case plan shall consider and  
10 describe the application of subdivision (b) of Section 11203.

11 (15) If the case plan has as its goal for the child a permanent  
12 plan of adoption or placement in another permanent home, it shall  
13 include a statement of the child's wishes regarding their permanent  
14 placement plan and an assessment of those stated wishes. The  
15 agency shall also include documentation of the steps the agency  
16 is taking to find an adoptive family or other permanent living  
17 arrangements for the child; to place the child with an adoptive  
18 family, an appropriate and willing relative, a legal guardian, or in  
19 another planned permanent living arrangement; and to finalize the  
20 adoption or legal guardianship. At a minimum, the documentation  
21 shall include child-specific recruitment efforts, such as the use of  
22 state, regional, and national adoption exchanges, including  
23 electronic exchange systems, when the child has been freed for  
24 adoption.

25 (16) (A) When appropriate, for a child who is 16 years of age  
26 or older, the case plan shall include a written description of the  
27 programs and services that will help the child, consistent with the  
28 child's best interests, prepare for the transition from foster care to  
29 independent living. The case plan shall be developed with the child  
30 and individuals identified as important to the child, and shall  
31 include steps the agency is taking to ensure that the child has a  
32 connection to a caring adult.

33 (B) During the 90-day period prior to the participant attaining  
34 18 years of age or older as the state may elect under Section 475  
35 (8)(B)(iii) (42 U.S.C. Sec. 675 (8)(B)(iii)) of the federal Social  
36 Security Act, whether during that period foster care maintenance  
37 payments are being made on the child's behalf or the child is  
38 receiving benefits or services under Section 477 (42 U.S.C. Sec.  
39 677) of the federal Social Security Act, a caseworker or other  
40 appropriate agency staff or probation officer and other

1 representatives of the participant, as appropriate, shall address, in  
2 the written transitional independent living plan, that is personalized  
3 at the direction of the child, information as detailed as the  
4 participant elects that shall include, but not be limited to, options  
5 regarding housing, health insurance, education, local opportunities  
6 for mentors and continuing support services, and workforce  
7 supports and employment services.

8 (g) If the court finds, after considering the case plan, that  
9 unsupervised sibling visitation is appropriate and has been  
10 consented to, the court shall order that the child or the child's  
11 siblings, the child's current caregiver, and the child's prospective  
12 adoptive parents, if applicable, be provided with information  
13 necessary to accomplish this visitation. This section does not  
14 require or prohibit the social worker's facilitation, transportation,  
15 or supervision of visits between the child and his or her siblings.

16 (h) The case plan documentation on sibling placements required  
17 under this section shall not require modification of existing case  
18 plan forms until the Child Welfare Services Case Management  
19 System is implemented on a statewide basis.

20 (i) When a child who is 10 years of age or older and who has  
21 been in out-of-home placement for six months or longer, the case  
22 plan shall include an identification of individuals, other than the  
23 child's siblings, who are important to the child and actions  
24 necessary to maintain the child's relationship with those  
25 individuals, provided that those relationships are in the best interest  
26 of the child. The social worker shall ask every child who is 10  
27 years of age or older and who has been in out-of-home placement  
28 for six months or longer to identify individuals other than the  
29 child's siblings who are important to the child, and may ask any  
30 other child to provide that information, as appropriate. The social  
31 worker shall make efforts to identify other individuals who are  
32 important to the child, consistent with the child's best interests.

33 (j) The child's caregiver shall be provided a copy of a plan  
34 outlining the child's needs and services.

35 (k) On or before June 30, 2008, the department, in consultation  
36 with the County Welfare Directors Association and other  
37 advocates, shall develop a comprehensive plan to ensure that 90  
38 percent of foster children are visited by their caseworkers on a  
39 monthly basis by October 1, 2011, and that the majority of the  
40 visits occur in the residence of the child. The plan shall include

1 any data reporting requirements necessary to comply with the  
2 provisions of the federal Child and Family Services Improvement  
3 Act of 2006 (Public Law 109-288).

4 (I) The implementation and operation of the amendments to  
5 subdivision (i) enacted at the 2005–06 Regular Session shall be  
6 subject to appropriation through the budget process and by phase,  
7 as provided in Section 366.35.

8 SEC. 11.5. Section 16501.1 of the Welfare and Institutions  
9 Code is amended to read:

10 16501.1. (a) (1) The Legislature finds and declares that the  
11 foundation and central unifying tool in child welfare services is  
12 the case plan.

13 (2) The Legislature further finds and declares that a case plan  
14 ensures that the child receives protection and safe and proper care  
15 and case management, and that services are provided to the child  
16 and parents or other caretakers, as appropriate, in order to improve  
17 conditions in the parent's home, to facilitate the safe return of the  
18 child to a safe home or the permanent placement of the child, and  
19 to address the needs of the child while in foster care.

20 (b) (1) A case plan shall be based upon the principles of this  
21 section and shall document that a preplacement assessment of the  
22 service needs of the child and family, and preplacement preventive  
23 services, have been provided, and that reasonable efforts to prevent  
24 out-of-home placement have been made.

25 (2) In determining the reasonable services to be offered or  
26 provided, the child's health and safety shall be the paramount  
27 concerns.

28 (3) (A) In determining the reasonable services to be offered or  
29 provided, the case plan shall include information, to the extent  
30 possible, about a parent's incarceration in a county jail or the state  
31 prison during the time that a minor child of that parent is involved  
32 in dependency care. Once a consistent data entry field or fields  
33 have been designated in the statewide child welfare database, social  
34 workers shall make reasonable efforts to collect and update  
35 necessary data regarding a child's incarcerated parent or parents.

36 (B) In order to further the goals of this paragraph, the Legislature  
37 encourages the State Department of Social Services to consult with  
38 the county welfare directors regarding the best way to incorporate  
39 the information specified in subparagraph (A) as a required field  
40 in the statewide database. The Legislature also encourages the

1 Department of Justice, the Department of Corrections and  
2 Rehabilitation, county welfare departments, and county sheriffs  
3 to develop protocols for facilitating the exchange of information  
4 regarding the location and sentencing of the incarcerated parent  
5 or parents of a minor child who is in dependency care.

6 (C) Nothing in this paragraph shall be interpreted to require the  
7 department to create a new dedicated field in the statewide database  
8 for incorporating the information specified in subparagraph (A).

9 (4) Reasonable services shall be offered or provided to make it  
10 possible for a child to return to a safe home environment, unless,  
11 pursuant to subdivisions (b) and (e) of Section 361.5, the court  
12 determines that reunification services shall not be provided.

13 (5) If reasonable services are not ordered, or are terminated,  
14 reasonable efforts shall be made to place the child in a timely  
15 manner in accordance with the permanent plan and to complete  
16 all steps necessary to finalize the permanent placement of the child.

17 (c) (1) If out-of-home placement is used to attain case plan  
18 goals, the decision regarding choice of placement shall be based  
19 upon selection of a safe setting that is the least restrictive or most  
20 familylike and the most appropriate setting that is available and  
21 in close proximity to the parent's home, proximity to the child's  
22 school, consistent with the selection of the environment best suited  
23 to meet the child's special needs and best interests, or both. The  
24 selection shall consider, in order of priority, placement with  
25 relatives, tribal members, and foster family, group care, and  
26 residential treatment pursuant to Section 7950 of the Family Code.

27 (2) In addition to the requirements of paragraph (1), and taking  
28 into account other statutory considerations regarding placement,  
29 the selection of the most appropriate home that will meet the child's  
30 special needs and best interests shall also promote educational  
31 stability by taking into consideration proximity to the child's school  
32 attendance area.

33 (d) A written case plan shall be completed within a maximum  
34 of 60 days of the initial removal of the child or of the in-person  
35 response required under subdivision (f) of Section 16501 if the  
36 child has not been removed from his or her home, or by the date  
37 of the dispositional hearing pursuant to Section 358, whichever  
38 occurs first. The case plan shall be updated as the service needs  
39 of the child and family dictate. At a minimum, the case plan shall  
40 be updated in conjunction with each status review hearing

1 conducted pursuant to Section 366.21, and the hearing conducted  
2 pursuant to Section 366.26, but no less frequently than once every  
3 six months. Each updated case plan shall include a description of  
4 the services that have been provided to the child under the plan  
5 and an evaluation of the appropriateness and effectiveness of those  
6 services.

7 (1) It is the intent of the Legislature that extending the maximum  
8 time available for preparing a written case plan from 30 to 60 days  
9 will afford caseworkers time to actively engage families, and to  
10 solicit and integrate into the case plan the input of the child and  
11 the child's family, as well as the input of relatives and other  
12 interested parties.

13 (2) The extension of the maximum time available for preparing  
14 a written case plan from the 30 to 60 days shall be effective 90  
15 days after the date that the department gives counties written notice  
16 that necessary changes have been made to the Child Welfare  
17 Services Case Management System to account for the 60-day  
18 timeframe for preparing a written case plan.

19 (e) The child welfare services case plan shall be comprehensive  
20 enough to meet the juvenile court dependency proceedings  
21 requirements pursuant to Article 6 (commencing with Section 300)  
22 of Chapter 2 of Part 1 of Division 2.

23 (f) The case plan shall be developed as follows:

24 (1) The case plan shall be based upon an assessment of the  
25 circumstances that required child welfare services intervention.  
26 The child shall be involved in developing the case plan as age and  
27 developmentally appropriate.

28 (2) The case plan shall identify specific goals and the  
29 appropriateness of the planned services in meeting those goals.

30 (3) The case plan shall identify the original allegations of abuse  
31 or neglect, as defined in Article 2.5 (commencing with Section  
32 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the  
33 conditions cited as the basis for declaring the child a dependent of  
34 the court pursuant to Section 300, or all of these, and the other  
35 precipitating incidents that led to child welfare services  
36 intervention.

37 (4) The case plan shall include a description of the schedule of  
38 the social worker contacts with the child and the family or other  
39 caretakers. The frequency of these contacts shall be in accordance  
40 with regulations adopted by the State Department of Social

1 Services. If the child has been placed in foster care out of state,  
2 the county social worker or a social worker on the staff of the  
3 social services agency in the state in which the child has been  
4 placed shall visit the child in a foster family home or the home of  
5 a relative, consistent with federal law and in accordance with the  
6 department's approved state plan. For children in out-of-state group  
7 home facilities, visits shall be conducted at least monthly, pursuant  
8 to Section 16516.5. At least once every six months, at the time of  
9 a regularly scheduled social worker contact with the foster child,  
10 the child's social worker shall inform the child of his or her rights  
11 as a foster child, as specified in Section 16001.9. The social worker  
12 shall provide the information to the child in a manner appropriate  
13 to the age or developmental level of the child.

14 (5) (A) When out-of-home services are used, the frequency of  
15 contact between the natural parents or legal guardians and the child  
16 shall be specified in the case plan. The frequency of those contacts  
17 shall reflect overall case goals, and consider other principles  
18 outlined in this section.

19 (B) Information regarding any court-ordered visitation between  
20 the child and the natural parents or legal guardians, and the terms  
21 and conditions needed to facilitate the visits while protecting the  
22 safety of the child, shall be provided to the child's out-of-home  
23 caregiver as soon as possible after the court order is made.

24 (6) When out-of-home placement is made, the case plan shall  
25 include provisions for the development and maintenance of sibling  
26 relationships as specified in subdivisions (b), (c), and (d) of Section  
27 16002. If appropriate, when siblings who are dependents of the  
28 juvenile court are not placed together, the social worker for each  
29 child, if different, shall communicate with each of the other social  
30 workers and ensure that the child's siblings are informed of  
31 significant life events that occur within their extended family.  
32 Unless it has been determined that it is inappropriate in a particular  
33 case to keep siblings informed of significant life events that occur  
34 within the extended family, the social worker shall determine the  
35 appropriate means and setting for disclosure of this information  
36 to the child commensurate with the child's age and emotional  
37 well-being. These significant life events shall include, but shall  
38 not be limited to, the following:

39 (A) The death of an immediate relative.

40 (B) The birth of a sibling.

1 (C) Significant changes regarding a dependent child, unless the  
2 child objects to the sharing of the information with his or her  
3 siblings, including changes in placement, major medical or mental  
4 health diagnoses, treatments, or hospitalizations, arrests, and  
5 changes in the permanent plan.

6 (7) If out-of-home placement is made in a foster family home,  
7 group home, or other child care institution that is either a  
8 substantial distance from the home of the child's parent or out of  
9 state, the case plan shall specify the reasons why that placement  
10 is in the best interest of the child. When an out-of-state group home  
11 placement is recommended or made, the case plan shall, in  
12 addition, specify compliance with Section 7911.1 of the Family  
13 Code.

14 (8) Effective January 1, 2010, a case plan shall ensure the  
15 educational stability of the child while in foster care and shall  
16 include both of the following:

17 (A) An assurance that the placement takes into account the  
18 appropriateness of the current educational setting and the proximity  
19 to the school in which the child is enrolled at the time of placement.

20 (B) An assurance that the placement agency has coordinated  
21 with appropriate local educational agencies to ensure that the child  
22 remains in the school in which the child is enrolled at the time of  
23 placement, or, if remaining in that school is not in the best interests  
24 of the child, assurances by the placement agency and the local  
25 educational agency to provide immediate and appropriate  
26 enrollment in a new school and to provide all of the child's  
27 educational records to the new school.

28 (9) (A) If out-of-home services are used, or if parental rights  
29 have been terminated and the case plan is placement for adoption,  
30 the case plan shall include a recommendation regarding the  
31 appropriateness of unsupervised visitation between the child and  
32 any of the child's siblings. This recommendation shall include a  
33 statement regarding the child's and the siblings' willingness to  
34 participate in unsupervised visitation. If the case plan includes a  
35 recommendation for unsupervised sibling visitation, the plan shall  
36 also note that information necessary to accomplish this visitation  
37 has been provided to the child or to the child's siblings.

38 (B) Information regarding the schedule and frequency of the  
39 visits between the child and siblings, as well as any court-ordered  
40 terms and conditions needed to facilitate the visits while protecting

1 the safety of the child, shall be provided to the child's out-of-home  
2 caregiver as soon as possible after the court order is made.

3 (10) If out-of-home services are used and the goal is  
4 reunification, the case plan shall describe the services to be  
5 provided to assist in reunification and the services to be provided  
6 concurrently to achieve legal permanency if efforts to reunify fail.

7 The plan shall also consider in-state and out-of-state placements,  
8 the importance of developing and maintaining sibling relationships  
9 pursuant to Section 16002, and the desire and willingness of the  
10 caregiver to provide legal permanency for the child if reunification  
11 is unsuccessful.

12 (11) If out-of-home services are used, the child has been in care  
13 for at least 12 months, and the goal is not adoptive placement, the  
14 case plan shall include documentation of the compelling reason  
15 or reasons why termination of parental rights is not in the child's  
16 best interest. A determination completed or updated within the  
17 past 12 months by the department when it is acting as an adoption  
18 agency or by a licensed adoption agency that it is unlikely that the  
19 child will be adopted, or that one of the conditions described in  
20 paragraph (1) of subdivision (c) of Section 366.26 applies, shall  
21 be deemed a compelling reason.

22 (12) (A) Parents and legal guardians shall have an opportunity  
23 to review the case plan, and to sign it whenever possible, and then  
24 shall receive a copy of the plan. In any voluntary service or  
25 placement agreement, the parents or legal guardians shall be  
26 required to review and sign the case plan. Whenever possible,  
27 parents and legal guardians shall participate in the development  
28 of the case plan.

29 (B) Parents and legal guardians shall be advised that, pursuant  
30 to Section 1228.1 of the Evidence Code, neither their signature on  
31 the child welfare services case plan nor their acceptance of any  
32 services prescribed in the child welfare services case plan shall  
33 constitute an admission of guilt or be used as evidence against the  
34 parent or legal guardian in a court of law. However, they shall also  
35 be advised that the parent's or guardian's failure to cooperate,  
36 except for good cause, in the provision of services specified in the  
37 child welfare services case plan may be used in any hearing held  
38 pursuant to Section 366.21 or 366.22 as evidence.

39 (13) A child shall be given a meaningful opportunity to  
40 participate in the development of the case plan and state his or her



1 preference for foster care placement. A child who is 12 years of  
2 age or older and in a permanent placement shall also be given the  
3 opportunity to review the case plan, sign the case plan, and receive  
4 a copy of the case plan.

5 (14) The case plan shall be included in the court report and shall  
6 be considered by the court at the initial hearing and each review  
7 hearing. Modifications to the case plan made during the period  
8 between review hearings need not be approved by the court if the  
9 casework supervisor for that case determines that the modifications  
10 further the goals of the plan. If out-of-home services are used with  
11 the goal of family reunification, the case plan shall consider and  
12 describe the application of subdivision (b) of Section 11203.

13 (15) If the case plan has as its goal for the child a permanent  
14 plan of adoption or placement in another permanent home, it shall  
15 include a statement of the child's wishes regarding their permanent  
16 placement plan and an assessment of those stated wishes. The  
17 agency shall also include documentation of the steps the agency  
18 is taking to find an adoptive family or other permanent living  
19 arrangements for the child; to place the child with an adoptive  
20 family, an appropriate and willing relative, a legal guardian, or in  
21 another planned permanent living arrangement; and to finalize the  
22 adoption or legal guardianship. At a minimum, the documentation  
23 shall include child-specific recruitment efforts, such as the use of  
24 state, regional, and national adoption exchanges, including  
25 electronic exchange systems, when the child has been freed for  
26 adoption.

27 (16) (A) When appropriate, for a child who is 16 years of age  
28 or older, the case plan shall include a written description of the  
29 programs and services that will help the child, consistent with the  
30 child's best interests, prepare for the transition from foster care to  
31 independent living. The case plan shall be developed with the child  
32 and individuals identified as important to the child, and shall  
33 include steps the agency is taking to ensure that the child has a  
34 connection to a caring adult.

35 (B) During the 90-day period prior to the participant attaining  
36 18 years of age or older as the state may elect under Section 475  
37 (8)(B)(iii) (42 U.S.C. Sec. 675 (8)(B)(iii)) of the federal Social  
38 Security Act, whether during that period foster care maintenance  
39 payments are being made on the child's behalf or the child is  
40 receiving benefits or services under Section 477 (42 U.S.C. Sec.

677) of the federal Social Security Act, a caseworker or other appropriate agency staff or probation officer and other representatives of the participant, as appropriate, must address, in the written transitional independent living plan, that is personalized at the direction of the child, information as detailed as the participant elects that shall include, but not be limited to, options regarding housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services.

(g) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings, the child's current caregiver, and the child's prospective adoptive parents, if applicable, be provided with information necessary to accomplish this visitation. This section does not require or prohibit the social worker's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(h) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

(i) When a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer, the case plan shall include an identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(j) The child's caregiver shall be provided a copy of a plan outlining the child's needs and services.

(k) On or before June 30, 2008, the department, in consultation with the County Welfare Directors Association and other advocates, shall develop a comprehensive plan to ensure that 90 percent of foster children are visited by their caseworkers on a

1 monthly basis by October 1, 2011, and that the majority of the  
2 visits occur in the residence of the child. The plan shall include  
3 any data reporting requirements necessary to comply with the  
4 provisions of the federal Child and Family Services Improvement  
5 Act of 2006 (Public Law 109-288).

6 (l) The implementation and operation of the amendments to  
7 subdivision (i) enacted at the 2005–06 Regular Session shall be  
8 subject to appropriation through the budget process and by phase,  
9 as provided in Section 366.35.

10 SEC. 12. Section 7.5 of this bill incorporates amendments to  
11 Section 16119 of the Welfare and Institutions Code proposed by  
12 both this bill and AB 154. It shall only become operative if (1)  
13 both bills are enacted and become effective on or before January  
14 1, 2010, (2) each bill amends Section 16119 of the Welfare and  
15 Institutions Code, and (3) this bill is enacted after AB 154, in which  
16 case Section 7 of this bill shall not become operative.

17 SEC. 13. Section 11.5 of this bill incorporates amendments to  
18 Section 16501.1 of the Welfare and Institutions Code proposed by  
19 both this bill and SB 118. It shall only become operative if (1) both  
20 bills are enacted and become effective on or before January 1,  
21 2010, (2) each bill amends Section 16501.1 of the Welfare and  
22 Institutions Code, and (3) this bill is enacted after SB 118, in which  
23 case Section 11 of this bill shall not become operative.

24 SEC. 14. No appropriation pursuant to Section 15200 of the  
25 Welfare and Institutions Code shall be made for the purpose of  
26 implementing this act.

27 SEC. 15. No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution for certain  
29 costs that may be incurred by a local agency or school district  
30 because, in that regard, this act creates a new crime or infraction,  
31 eliminates a crime or infraction, or changes the penalty for a crime  
32 or infraction, within the meaning of Section 17556 of the  
33 Government Code, or changes the definition of a crime within the  
34 meaning of Section 6 of Article XIII B of the California  
35 Constitution.

36 However, if the Commission on State Mandates determines that  
37 this act contains other costs mandated by the state, reimbursement  
38 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O